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SLP(C)No. 6790 OF 2000

ITEM No.29

Court No. 7

SECTION IVA  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.6790/2000

(From the judgement and order dated 14/01/2000 in CRP 1542/99  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

V. BHASKAR RAO & ORS.

Petitioner (s)

VERSUS

GANGA RAO K. & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 2/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA  
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. K.N.Bhat,Sr.Adv.  
Mr. S.R.Bhat,adv.  
Mr. Naveen R.Nath,adv.for  
Mr. Shiv Kumar Suri,Adv.

For Respondent (s) Mr. Girish Ananthamurthy,adv.  
Mr. P.P. Singh,Adv.

UPON hearing counsel the Court made the following  
O R D E R

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.SP2

We have heard learned counsel for the parties. We have also perused the judgment passed by the High Court which is under challenge and the other relevant papers placed before us by learned counsel for the parties.

The short question that arises for consideration is whether the High Court committed an error in holding that the application filed by the petitioners seeking determination of the mesne profits/damages in the final decree proceeding was, in the facts and circumstances of

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the case was not maintainable. On perusal of the record we find that in the memo filed on behalf of the petitioner before the trial court it was stated inter alia that the question of mesne profits/damages may be left open to be decided later in the proceedings.

There is no direction in the preliminary decree or the final decree for determination of mesne profit/damages in the proceeding. In the absence of any direction either in preliminary decree or final decree for holding enquiry as to mesne-profits, the High Court was right and justified in passing the order under challenge. The said order does not suffer from any infirmity which warrants interference by the court having regard to facts and circumstances of the case. Hence the special leave petition is dismissed.

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(Suman Wadhwa)  
PA to Addl.Regr.

(S.Malkani)  
Court Master