

1*ITEM NO.104

COURT NO.6

SECTION IVA

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

CIVIL APPEAL NO(s). 4730 OF 2007

BASAPPA & ANR.

Appellant (s)

VERSUS

GOWRAMMA

Respondent(s)

Date: 01/09/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s)

Mr. R.S.Hegde, Adv.for
Mr. P.P. Singh,Adv.

For Respondent(s)

Mr. Purushottam S.T., Adv.for
Mr. V.N. Raghupathy,Adv.

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

The Appeal is allowed in terms of the signed order.

No costs.

(Parveen Kr. Chawla)
Court Master

(Indu Satija)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4730 OF 2007

Basappa & Another

..Appellants

versus

Gowramma

..Respondent

O R D E R

Heard learned counsel for the parties.

The plaintiffs filed a suit for specific performance of
contract on the basis of a deed of re-conveyance.

According to the plaintiffs-appellants, they were in

urgent need of money to perform the marriage of their sister and borrowed a sum of Rs.1500/- from the defendant-respondent. Plaintiffs wanted to mortgage the property in dispute but at the insistence of the defendant executed a sale deed dated 20th May, 1976. On the same date, the defendant executed an agreement to reconvey the property in dispute in the event plaintiffs within six years pay a sum of Rs.1500/- to the defendant.

The plaintiffs arranged the amount and made payment to the defendant within a period of six years but the defendant refused to accept the amount and reconvey the property in dispute. Defendant contested the suit and while admitting the execution of sale deed in her favour denied all other allegations. On the basis of the pleadings of the parties, the Trial Court framed various issues including the issue as to whether the defendant executed the agreement of re-

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conveyance of suit schedule property on the date of the sale deed itself, i.e., 20th May, 1976.

On appraisal of the evidence, the Trial Court came to the conclusion that the defendant executed the deed of reconveyance agreeing to re-convey the property in dispute within a period of six years and accordingly decreed the suit and directed the plaintiffs to deposit the sum of Rs.1500/- within a period of two months from the date of the judgment and decree and defendant in turn was directed to execute the sale deed within a period of two months thereafter.

Defendant, aggrieved by the same, preferred appeal and the lower Appellate Court, on its finding that the sale deed was not a mortgage by conditional sale, set aside the judgment and decree of the Trial Court and dismissed the plaintiffs suit. The said judgment has been affirmed by the

High Court in second appeal.

We have heard learned counsel for the parties.

We are of the opinion that the lower Appellate Court and the High Court totally misdirected themselves in going into the question as to whether the document by which the property was transferred to the defendant contemplated the condition of re-conveyance. It is true that the sale deed executed in favour of the defendant did not contain the condition of re-conveyance of the property in dispute. However, a separate agreement to re-convey

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the property in dispute was executed on the same date on which the sale deed was executed. There being a separate deed validly entered between the plaintiffs and the defendant for re-conveyance of the property in dispute, we are of the opinion that the lower Appellate Court erred in setting aside the judgment and decree of the Trial Court, and the High Court erred in affirming the same.

In the result, we set aside the judgments and decrees of the High Court and the lower Appellate Court and restore that of the Trial Court. No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
September 01, 2011

.....J.
[CHANDRAMAULI KR. PRASAD]