

b%

SLP(C)No. 7804 OF 1999

ITEM No.203

Court No. 1

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.7804/1999

(From the judgement and order dated 31/08/1998 in RSA 616/96  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

MADHUKAR V.M.DESAI & ORS

Petitioner (s)

VERSUS

VIRUPAX B. HIREMATH & ORS

Respondent (s)

(With Appln(s). for deletion of the name of Respondent Nos.2,3 and  
4 and substitution in respect of Respondent Nos.2,3 and 4)  
( For Final Disposal )

Date : 01/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE BISHESHWAR PRASAD SINGH

For Petitioner (s) Ms. Kiran Suri,Adv.

For Respondent (s) Mr. S. Ravindra Bhat,Adv.  
Mr. Naveen R. Nath,Adv.  
Ms. Lalit Mohini Bhat,Adv.  
Ms. Hetu Arora,Adv.  
Mr. Vinod Pandey,Adv.  
Mr. Shiv Kumar Suri,Adv.

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

.....L.....I..T.....T.....T.....T.....T.....T.....T.....T.....J  
Heard Ms. Kiran Suri and Mr. S. Ravindra Bhat,  
learned counsel for the parties, from 11.55 a.m. to 12.05  
p.m.

Leave granted.

The civil appeal is ordered.

No order as to costs.

(T.I. Rajput)  
Court Master

(Shelly Sengupta)  
Court Master

(Signed order is placed on the file)

.PA  
.PL55

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 902 of 2002@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC  
(Arising out of S.L.P. (C) No.7804 of 1999)

Madhukar V.M.Desai & Ors. ...Appellant (s)

Versus~

Virupax B. Hiremath & Ors. ....Respondent (s)

O R D E R@@  
CCCCCCCCCCCC

....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

.SP2

The suit having been filed in a representative capacity, learned counsel submits that it is not necessary to bring the legal representatives of the three deceased plaintiffs on record.

Leave granted.

The notice on the special leave petition stated that the matter might be disposed of at the S.L.P. stage by setting aside the order under challenge and restoring the second appeal to the High Court for being heard and disposed of afresh, having due regard to the jurisdiction of the High Court in such matters.

By the order under challenge, the High Court reversed the decision of the First Appellate Court and restored that of ...2/-

- 2 -

the Trial Court. It did so without framing any question of law and it, perhaps, went into questions of fact, which it was impermissible to do.

We think, therefore, that it is in the interests of justice that the order under challenge should be set aside and the second appeal (R.S.A. No. 616 of 1996) be restored to the file of the High Court of Karnataka to be heard and disposed of afresh, having due regard to its jurisdiction in such matters. This shall be done expeditiously.

It shall be open to both the parties to address all available contentions in the second appeal.

Order accordingly.

No order as to costs.

.SP1

.....CJI.@@  
AAAA

.....J.@@  
AA  
(Shivaraj V. Patil)@@  
AAAAAAAAAAAAAAAAAAAAA

.....J.@@  
AA  
(Bisheshwar Prasad Singh)@@  
AAAAAAAAAAAAAAAAAAAAA

New Delhi,  
February 01, 2002.