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SLP(C)No. 8116 OF 2000  
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2002@@  
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(Arising out of Special leave petition(C) No.8116/2000)

Mohd. Nasib Khan .. Appellant

Vs.

Kagitam Lakshmi Devi .. Respondent

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Leave granted.

In a suit in O.S. No.92 of 1995 an order was made by the Senior Civil Judge, Madanapalle on 14.7.1999 who took the view that after examining the document known as "Khararnama" that the parties thereto had agreed to divide the properties into three equal shares in future and thus by the said document, the properties were not divided but they had agreed to divide those properties into three equal shares in future, therefore, the document was an agreement to divide the properties and the document is not out and out a partition deed and, therefore, Section 17 of the Registration Act was not attracted and the said document was admissible in evidence.

Against that order, a revision petition was filed in the High Court under Section 115 of the Civil

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Procedure code. The High Court after examining the matter took a contrary view and concluded that the said document had definitely created rights in the present and also in future without there being any necessity of further document to be executed between the parties.

In the circumstances arising in the matter, we think the High Court ought not to have exercised its power under Section 115 of the Civil Procedure Code and should have allowed the parties to work out their respective rights in an appeal that may arise on disposal of the suit rather than to decide the matter itself at the stage in the course of revision petition.

Adopting that course, we set aside the order made by the High Court and restore that of the trial Court. We, however, make it clear that it is open to the either party, on the disposal of the suit, to raise this point in an appeal that may arise. The appeal is allowed accordingly.

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[ S. RAJENDRA BABU ]@@  
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[ RUMA PAL ]@@  
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New Delhi,@@  
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January 23, 2002.

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ITEM No.4

Court No. 6

SECTION XIIA  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.8116/2000  
(From the judgement and order dated 09/02/2000 in CRP 3330/99  
of The HIGH COURT OF A.P AT HYDERABAD)

MOHD.NASEEB KHAN

Petitioner (s)

VERSUS

KAGITAM LAKSHMI DEVI  
(With prayer for interim relief)  
( With Appln(s). for exemption from filing O.T. )  
( For Final Disposal )  
(Office report)

Respondent (s)

Date : 23/01/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. L. Nageswara Rao, Sr. Adv.  
Mr. S. Udaya Kumar Sagar, Adv.

For Respondent (s) Mr. Guntur Prabhakar, Adv.  
Mr. P. Venkat Reddy, Adv.  
Mr. G. Narasimhulu, Adv.

UPON hearing counsel the Court made the following  
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Mr. L. Nageswara Rao, learned senior advocate  
started his arguments at 10.40 a.m. and concluded at  
10.50 a.m.

Leave granted.

Appeal is allowed in terms of the signed order.

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(Meenu Sethi)  
Court Master

(Om Prakash )  
Court Master

Signed order is placed on the file