

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.8159/1999

(From the judgement and order dated 22/06/1998 in RSA 36/90
of The HIGH COURT OF KARNATAKA AT BANGALORE)

BASAWANTRAO

Petitioner (s)

VERSUS

SIDRAMAPPA & ORS.
(With prayer for interim relief)
(For Final Disposal)

Respondent (s)

Date : 17/01/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. K.H. Nobin Singh, Adv.
Ms. Sangeeta Kumar, Adv.

For Respondent (s) Mr. Padmanabha Mahale, Adv.
Mr. Rajesh Mahale, Adv.
Mr. R.C. Kohli, Adv.

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

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Leave granted.
The appeal is dismissed. Costs on the parties.

.SP1

Sarita (V.P. Tyagi) @@
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COURT MASTER@@
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(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 673 OF 2001@@
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(Arising out of SLP(C) No. 8159/1999)

BASAWANTRAO

...APPELLANT

VERSUS

SIDRAMAPPA & ORS.

...RESPONDENTS

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J
Leave granted.

The appellant has challenged the order dated dated 22nd June, 1998 passed by the High Court in second appeal wherein the appeal filed by the respondent-plaintiff was allowed. The short question for decision is whether the High Court committed an error in setting aside the appellate court order in second appeal on the facts and circumstances of this case.

The submission is, the High Court fell into error by interfering with the findings of fact that plaintiff has not proved the gift recorded by the Appellate court, hence exercised its jurisdiction illegally.

Heard learned counsel for the parties. We find the High Court allowed the second appeal mainly on the title of the disputed land which stood gifted and transferred through sale deed by registered documents unless challenged, his claim cannot succeed. It is not in dispute, appellant was aware of these documents yet did not seek its quashing. In view of this, the beneficiary under the said gift deed/sale deed viz. the plaintiff-respondent, gets title under the said two documents. Prima facie a registered document proves one's right under it. Learned counsel for the appellant made attempt to submit that though specific quashing is not sought for, but he has challenged the right of the original owner who had gifted and soled the said property to the respondent.

However, we do not find any such issue being raised. In the absence of any issue, in the absence of seeking quashing of the document, no finding in favour of appellant right, if any, could be sustained. In view of this, the quashing of Appellate court's order by the High Court cannot be said to be such which require any intereference. Thus the present appeal fails and is, accordingly, dismissed. Costs on the parties.

.....J.
(A.P. MISRA)

New Delhi,
January 17, 2001.

.....J.
(U.C. BANERJEE)