

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 112-113 OF 2012

H.D.VIJAYADEVA

Appellant(s)

VERSUS

LALITHAMMA & ORS.

Respondent(s)

WITH

CIVIL APPEAL No(s). 117 OF 2012

O R D E R

Heard learned counsel for the parties.

The High Court by its judgment and final order dated 2.1.2008 had decided other issues on merits while additional issue has been framed and has remitted the matter to the trial court. High Court ought not to have decided the other issues on merits when additional issue has been framed because when additional issue has been framed, decision on other issues may also depend upon the outcome of the

additional issue which has been framed. The additional issue framed is as under:

"Whether the plaintiff proves that the plaintiff, defendant no.1 and their father Sri H.T. Devaiah have jointly developed the schedule 'B' property with the monetary contribution and understanding that it is their joint property though the same stood in the name of Sri. H.D. Ashwathnarayana?"

The decision on aforesaid issue may have impact on the outcome of other issues. Thus we set aside the judgment of the High Court and request the High Court that instead of remanding the matter to the trial court it may call for the finding of the trial court on the evidence, if any, to be adduced by the parties and thereafter to decide the appeals.

In view of the framing of issue and the additional evidence which has been taken on record, it is necessary to set aside the findings on other issues. The impugned order of the High Court is set aside to the aforesaid extent.

Let the High Court call for the finding from the trial court as expeditiously as possible and to

hear and decide the appeals afresh in accordance with law.

Appeals are accordingly disposed of. No costs.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;

JULY 27, 2017

ITEM NO.110

COURT NO.10

SECTION IV-A

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

Civil Appeal No(s). 112-113/2012

H.D.VIJAYADEVA

Appellant(s)

VERSUS

LALITHAMMA & ORS.

Respondent(s)

WITH

C.A. No. 117/2012 (IV-A)

Date : 27-07-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For the parties:

Mr. V. N. Raghupathy, AOR

Mr. Trideep Pais, Adv.

Mr. S. Sud, Adv.

Ms. Anjana Chandrashekar, AOR

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

The appeals are disposed of in terms of the signed order.

Pending application, if any shall stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER

(signed order is placed on the file)