

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). 449-450 OF 2006

A.V. RANGACHARYA (D) BY LRS. Appellant (s)

VERSUS

M. NARAYANAPPA & ANR. Respondent(s)

(With prayer for interim relief and office report)

Date: 03/08/2011 These Appeals were called on for hearing today.

CORAM :

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

For Appellant(s) Mr. G.V. Chandrashekar, Adv.
Mr. N.K. Verma, Adv.
Mr. P.P. Singh, Adv.

For Respondent(s) Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, Adv.
Mr. Khwairakpam Nobin Singh, Adv.

Mr. V.N. Raghupathy, Adv.

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

The Appeals are allowed in terms of the signed order.

(Rajesh Dham)
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(s). 449-450 OF 2006

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VERSUS

M. NARAYANAPPA & ANR. Respondent(s)

O R D E R

Heard learned counsel for the parties.

These Appeals have been filed against the impugned orders dated 20.03.2001 passed in LRRP No. 3673 of 1989 and dated 27.01.2003 passed in Review Petition No. 516/2001 in LRRP No. 3673 of 1989 by the High Court of Karnataka.

The facts have been given in the impugned order dated 20.03.2001 and hence we are not repeating the same here, except wherever necessary.

Respondent No. 1 claims to be the foster son of one Kanakkappa who claims to be a lessee of assignee-mortgagee Lakshmi Narasamma. A suit was filed by the legal heirs of the mortgagor Arasamma which was decreed in 1968. On 18.08.1972 the decree was executed. Subsequently, Karnataka

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Land Reforms Act, 1961 was amended with effect from 01.03.1974. Respondent No. 1 filed Form No. 7 claiming occupancy rights in his favour. His claim was rejected by the Land Tribunal on 01.08.1979. However, appeal filed by respondent No. 1 against the order of the Land Tribunal was allowed by the Land Reforms Appellate Authority on 09.02.1989 holding that Kanakkappa's son became occupancy tenant. This decision was upheld in revision by the High Court.

Having heard learned counsel for the parties and having perused the record, we are of the opinion that the impugned orders of the High Court and the order of the appellate authority cannot be sustained for two reasons :-

(1) A foster son is not a legal son at all in Hindu law because in present Hindu law there are only two kinds of legal sons, namely, (i) natural son or Auras Putra, who

a man has through his legally wedded wife and, (ii) Adopted son or Datak Putra who is adopted after following certain procedures given in the Hindu Adoptions and Maintenance Act, 1956.

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Foster son is not an adopted son. He is only a child who is brought up by a man without going through the legal formalities of adoption.

In the present case, it is not even the case of respondent No. 1 that legal formalities have been complied with for any adoption or that he was legally adopted.

(2) Moreover, it appears that the civil suit had been decreed in the year 1968 and possession had been delivered to the plaintiff in 1972. For these reasons, the subsequent amendment in the Karnataka Land Reforms Act will be of no help to defendant-respondent No. 1.

For the reasons given above, these Appeals stand allowed. The impugned orders of the High Court and the order of the appellate authority are set aside. No costs.

.....J.
(MARKANDEY KATJU)

NEW DELHI;
AUGUST 03, 2011

.....J.
(CHANDRAMAULI KR. PRASAD)