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SLP(C)No. 12566 OF 2001

ITEM No.42

Court No. 3

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.12566/2001

(From the judgement and order dated 30/01/2001 in RFA 744/99  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

S.U. SUMAN & ANR.

Petitioner (s)

VERSUS

S.M. UDAYASHANKAR & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 30/09/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE  
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s) Mr. A.S. Bhasme, Adv.  
Mr. Sanjay Visen, Adv.  
Mr. Manoj K Mishra, Adv.

For Respondent (s)  
Nos. 3 and 4 Mr. DP Chaturvedi, Adv.  
for Mr. S.N. Bhat, Adv.

Nos. 6 and 7 Mr. PS Narasimha, Adv.  
Mr. Ananga Bhattacharya, Adv.  
for M/s. P.S.N. & Co.

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

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Heard counsel for few minutes.

Leave granted.

The appeal is allowed. There shall be no order as  
to costs.

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(Alka Dudeja)  
Court Master

(S. Krishnan)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6418 OF 2002@@  
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(Arising out of S.L.P.(C) No. 12566 of 2001)

S.U. SUMAN & ANR. ... Appellant (s)

VERSUS

S.M. UDAYASHANKAR & ORS. ... Respondent (s)

O R D E R@@  
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Leave granted.

The appellants herein filed a suit before the Civil Judge, Senior Division, Madikeri, Kodagu District. However, the plaint was rejected under Order VII Rule 11 of Code of Civil Procedure, 1908. Against the said order, the appellants preferred an appeal, which was also dismissed. It is against the said judgment the appellants are in appeal before us.

We have heard counsel for the parties.

We are satisfied that the appellants, on account of ambiguity in regard to the valuation of the suit, could not furnish the appropriate court fees. We find that this case falls within the parameters of the proviso to Rule 11 of Order VII of the Civil Procedure Code. We, therefore, set aside the order under challenge and remit the matter to the trial court. The trial court shall, within the period of eight weeks' from the receipt of this order, redetermine the valuation of the suit and in case an enhanced court fee is required to be furnished by the appellants, they shall make good the shortfall in court fees within four weeks of such determination. In the event the court fees is not furnished within stipulated time, the plaint shall stand rejected in terms of Order VII Rule 11 of Civil Procedure Code. In case the court fees is paid, the trial court shall proceed to decide the suit on merits.

The appeal is allowed. There shall be no order as to costs.

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.....J.  
(V.N. KHARE)

.....J.  
(ASHOK BHAN)