

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3869-3870 of 2001

H.S. SIDDEGOWDA & OTHERS

...APPELLANTS

VERSUS

ANANDA & OTHERS

...RESPONDENTS

ORDER

These appeals emanate from the judgment dated 30.11.1999 of the High Court of Karnataka at Bangalore passed in Regular First Appeal Nos. 220 and 214 of 1994.

In order to understand the controversy involved in this case, genealogy of the family would be relevant which is set-out as under:

" Siddegowda @ Bukkegowda
! ! !
Borregowda Sannegowda H.S. Siddegowda
!
Ananda (plaintiff/contesting respondent)
(claimed to be son of Borregowda through Jayamma)"

Ananda-respondent No.1 herein (plaintiff before the trial court) filed a suit for partition under guardianship of his mother Jayamma as a next friend in the court of Civil Judge, Mandya.

By a detailed

judgment, the trial court partly decreed the suit holding that the respondent No.1 is entitled for half share in the following properties:

- 1. S.No. 155/1A measuring 34-1/2 gts. in suit schedule 'A/item 10';
- 2. S. No. 7/1A to the extent of 23-1/2 gts. in suit schedule 'A' item -12';
- 3. S. No. 2/7A to the extent of 5 gts in suit schedule 'A' item -9 and
- 4. S. No. 168/1 to the extent of 7 gts. in suit schedule 'A' item-7.

Further, the plaintiff is entitled for 1/8th share in the suit schedule 'A' item-14-the house."

Aggrieved by the part-decree granted by the trial court, both the parties preferred appeals bearing R.F.A. Nos. 214 and 220 of 1994 before the High Court. By impugned judgment, the High Court allowed the appeal filed by respondent No. 1 and dismissed the appeal filed by appellants. Aggrieved by the impugned judgment, present appeals by special leave, have been preferred before this Court.

We have heard learned counsel appearing for the parties and gone through the record.

The threshold submission of the learned counsel appearing for the appellants is that the High Court

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without analysing the evidence and considering the relevant documents on record decided both the appeals. The High Court was dealing with first appeal, wherein before setting aside the findings of the trial court, the High Court ought to have analysed the evidence on record. From the impugned judgment, it is clear that there is no discussion regarding the evidence or documents.

In this view of the matter, we are constrained to set-aside the impugned judgment and remit both the appeals to the High Court for deciding them afresh on merits. Since the matter has been pending for quite a long time, we request the High Court to dispose of the appeals as expeditiously as possible.

With these observations, the appeals stand disposed of leaving the parties to bear their own costs.

.....J.
[DALVEER BHANDARI]

.....J.
[HARJIT SINGH BEDI]

NEW DELHI
JANUARY 22, 2009.

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 3869-3870 OF 2001

H.S. SIDDEGOWDA & ORS.

Appellant (s)

VERSUS

ANANDA & ORS.

Respondent(s)

(With office report)

Date: 22/01/2009 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE HARJIT SINGH BEDI

For Appellant(s) Mr. P.R. Ramasesh,Adv.

For Respondent(s) Mr. G.V.Chandrashekar, Adv. for
Ms. Anjana Chandrashekar,Adv.

UPON hearing counsel the Court made the following
ORDER

The appeals stand disposed of in terms of signed order
leaving the parties to bear their own costs.

(Pardeep Kumar)
Court Master

(Neeru Bala Vij)
Court Master

[SIGNED ORDER IS PLACED ON THE FILE]