

| ITEM NO.118

COURT NO.6

SECTION IVA

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). 1317 OF 2006

CHANDRA BAI (D) BY LRS.

Appellant (s)

VERSUS

PARISA JINNAPPA KUDACHI

Respondent(s)

(With prayer for interim relief and office report)

Date: 17/08/2011 This Appeal was 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. for
Ms.Anjana Chandrashekar,Adv.

For Respondent(s)

Mr. Basava Prabhu S. Patil, Sr. Adv.
Mr. B.Subrahmanya Prasad, Adv.for
Mr. V.N. Raghupathy,Adv.

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

The Appeal is allowed in terms of the signed order.

(Parveen Kr. Chawla)
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. 1317 OF 2006

Chandra Bai (D) By Lrs.

..Appellants

versus

Parisa Jinnappa Kudachi

..Respondent

O R D E R

In view of the order which is proposed to be passed

in this appeal, it is inexpedient to give in details the facts of the case. Suffice it to say that the High Court in second appeal has reversed the finding of the lower appellate court. True it is that the High Court in a second appeal can reverse the finding of fact arrived at by the lower appellate court if it comes to the conclusion that the finding recorded is perverse. But while doing so, it has to meet the reasoning given by the lower appellate court and to consider the documents relied on by the parties.

In the present case, we find that the order passed on an application under Order XXI Rule 97 of the Code of Civil Procedure has not been referred to by the High Court while reversing the finding of the lower appellate court. We are not expressing any opinion about the value of the said document but the second appellate court was obliged to consider the same.

On this ground alone, we set aside the order of the High Court and remit the matter to the High Court for

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reconsideration in accordance with law. All contentions are left open to the parties to be raised before the High Court.

We direct the parties to appear before the High Court on 01st November, 2011.

As this appeal arises out of a suit filed in the year 1970, we would request the High Court to decide the appeal expeditiously, preferably within a period of six months from the date of appearance of the parties.

In the result, the appeal is allowed, order of the High Court is set aside and the matter is remitted back to the High Court for reconsideration in accordance with law bearing in mind the observation aforesaid.

No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
August 17, 2011

.....J.
[CHANDRAMAULI KR. PRASAD]