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C.A.No. 108 OF 1998
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
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ITEM NO.109 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.108/1998 @@
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Bhimanna Changappa & Ors. Appellant (s)

VERSUS

Maruti Huvappa Lad (Dead) by L.Rs. Respondent (s)

(with office report)

Date : 26/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. N.P.S. Panwar,Adv. for
Mr. S.N. Bhat,Adv.

For Respondent (s) Mr. G.V. Chandrasekhar,Adv. for
Mr. PP. Singh,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J.
.SP2

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

.SP1

(Neelam Kawatra)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.108 OF 1998

Bhimanna Changappa & Ors.

& Appellants

Vs.

Maruti Huvappa Lad (dead) by L.Rs.

& Respondent

O R D E R

On 20.4.1967, the defendant-appellants executed an agreement for sale of the land measuring one Acre. The said agreement for sale provided that the appellants shall sell the property after obtaining permission from the Deputy Commissioner, Belgaum which was required under law. Since the defendant-appellants did not obtain the permission for sale of the land for a considerable period of time, the plaintiff-respondent brought a suit for specific performance of the agreement for sale of the land. A written statement was filed by the defendant-appellants wherein it was alleged that the document on which the appellants alleged to have put his thumb impression was not an agreement for sale but was a mortgage deed. The trial Court framed various issues and one of the issues was whether the suit instituted by the plaintiff was within the period of limitation. The trial Court was of the view that the suit was brought within the period of limitation. Consequently, the suit was decreed. An appeal was preferred against the said judgment before the first appellate court and the same was dismissed. The second appeal preferred before the High Court also met with the same fate. It is against the said judgment, the defendants have preferred this appeal.

Learned counsel appearing for the appellants contended that the suit instituted by the plaintiff was barred by time and, therefore, the court below acted illegally in granting decree for specific performance in favour of the respondent. We have perused the judgment of the Court below and find that the agreement itself provided that the vendor has to obtain permission from the Deputy Commissioner for sale of the land but he failed to take the required permission and therefore, the suit was within period of limitation. We are in agreement with the view taken by the court below. No other argument was urged.

The appeal fails and is, accordingly, dismissed. There shall be no order as to costs.

& & & & & & & & & & J.
(V.N. Khare)

& & & & & & & & & J.
(B.N. Agrawal)

New Delhi,
July 26, 2001.

