

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2604 OF 2013  
(Arising out of SLP(C)No.21068 of 2012)

SMT.DR.SUSHILABAI

...Appellant(s)

VERSUS

SHRI JAGADGURU SHIVANAND HUMAN WEL.ASSN.

...Respondent(s)

O R D E R

Delay condoned.

Leave granted.

This appeal is directed against judgment dated 15.12.2010 of the learned Single Judge of the Karnataka High Court Circuit Bench at Dharwad whereby he allowed the second appeal filed by the respondent, set aside the judgments and decrees passed by the trial Court and the lower appellate Court and decreed the suit filed for cancellation of lease deed dated 07.06.1983 and for grant of a declaration that the same is not binding on the respondent.

We have heard Shri Awanish Kumar, learned counsel for the appellant and Shri Rajesh Mahale, learned counsel for the respondent and perused the record.

The suit filed by the respondent was dismissed by the trial Court vide judgment dated 16.07.1999. The appeal filed against the judgment of the trial Court was dismissed by the lower appellate Court on 29.06.2002.

The respondent challenged the judgment and decree of the lower appellate Court in Regular Second Appeal No.951 of 2002. At the time of institution of the second appeal, there was no Bench of the Karnataka High Court. After creation of the Dharwad and Gulbarga Benches of the High Court, the second appeal filed by the respondent was transferred from the Principal seat of the High Court at Bangalore to the Circuit Bench at Dharwad. Thereafter, no notice was issued to the parties about the date of hearing and the second appeal was allowed by the learned Single Judge by an ex-parte judgment, which is under challenge in this appeal.

In our view, once the second appeal filed by the respondent was transferred from the Principal seat of the High Court to its Circuit Bench at Dharwad, fresh notice specifying the date of hearing should have been issued and served upon the parties and then and then only the second appeal



SUSHILABAI

Petitioner(s)

VERSUS

SHRI JAGADGURU SHIVANAND HUMAN WEL.ASSN.

Respondent(s)

(With appln(s) for c/delay in filing SLP)

Date: 19/03/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr.Awanish Kumar, Adv.

For Respondent(s) Mr. Rajesh Mahale, Adv.  
Mr.Krutin R.Joshi, Adv.

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

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master

( Signed order is placed on the file )