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SLP(C)No. 1768 OF 2000

ITEM No.23

Court No. 1

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.1768/2000

(From the judgement and order dated 16/07/1999 in RFA 178/94
of The HIGH COURT OF KARNATAKA AT BANGALORE)

ANANT VENKATARAMAN HEGDE AND ANR.

Petitioner (s)

VERSUS

PRAKASH SREEDHAR HEGDE AND ORS.

Respondent (s)

(With prayer for interim relief)

Date : 26/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. M. Rama Jois, Sr. adv.
Mr. S. Ravindra Bhat, adv.
Mrs. L.M. Bhat, adv.

For Respondent (s) Mr. S.N. Bhat, adv.
Mrs Sheela Goel, adv.
Mr. P.R. Ramasesh, adv.

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

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

Leave granted.

The appeal is allowed in terms of the signed order.

No costs.

.SP1

(Neena Verma)
Court Master

(Prem Prakash)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1500 OF 2001@@
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(@ Special Leave Petition (C) No.1768/2000)

Anant Venkataraman Hegde & Anr. Appellants

Versus

Prakash Sreedhar Hegde & Ors. Respondents

O R D E R@@
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Leave granted.

The Trial Court granted a decree in favour of respondent, holding that the Will executed by Anant Venkataraman Hegde on 3rd August, 1974 was not binding on the plaintiff - respondent. First appeal against the judgment and decree was dismissed by the High Court. This appeal, by special leave, has put in issue, the judgment of the High Court.

On 11.2.2000, while issuing notice in the special leave petition, it was directed:

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"The notice shall indicate that the respondents may show cause why the petition be not remanded to the High Court for proper disposal since the judgment under appeal does

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not discuss either the evidence or the other material which was placed before the High Court. The notice shall be made returnable within four weeks."

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After hearing learned counsel for the parties, but without expressing any opinion on the merits of the controversy, we consider it proper to allow this appeal and set aside the impugned judgment and order of the High Court since we find that the judgment under appeal has not discussed either the evidence or other material placed before it. The High Court was dealing with a First Appeal.

Being the final court of fact, it was expected to appreciate the evidence and express its own opinion, howsoever brief, on the same, even though the judgment of the High Court is a judgment of affirmance. The First Appeal was required to be dealt with properly. The judgment of the High Court, under the circumstances, cannot be sustained. It is hereby set aside. The First Appeal is remanded to the High Court for its fresh disposal in accordance with law.

We request the High Court to dispose of the appeal expeditiously.

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It is clarified that nothing said hereinabove shall be construed as any expression of opinion on the merits of the case.

The appeal is, accordingly, allowed. No costs.

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.....CJI.

.....J.
(R.C. LAHOTI)

New Delhi,
February 26, 2001.

.....J.
(BRIJESH KUMAR)