

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 612 OF 2009

RAMAPPA SALIAN(D) BY LRS. .. APPELLANT(S)

VERSUS

RAJEEVI & ORS. .. RESPONDENT(S)

O R D E R

1. The appellants have failed to bring the legal representatives of respondent No. 5 on record and the appeal qua respondent No. 5 as well as respondent No. 1 was dismissed in terms of order dated 06.05.2019.

2. It is a say of learned counsel for the appellants that still the suit can continue qua the other parties.

3. The rights have been claimed on the basis of a will and as per the impugned order, the will has been proved. Respondent No. 5 derives rights under the will. Thus, if the determination of rights of respondent No. 5 are under the will, that will equally hold for the other parties. If that is the position, then nothing is left in the appeal. We say so because if we were to opine against the validity of the will, it will result in inconsistent decrees

inasmuch as qua one of the parties, the will would be held to be valid while qua other parties, will would be treated as invalid.

4. As a result of the aforesaid, the appeal has to be dismissed leaving parties to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[K.M. JOSEPH]

NEW DELHI,
OCTOBER 22, 2019.

