

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).7293 OF 2016

SEENAPPA

...APPELLANT(S)

VERSUS

R. KRISHNAPPA (DEAD) BY LRS. & ORS....RESPONDENT(S)

O R D E R

1. Heard counsel for the parties.
2. This appeal, essentially, questions the manner in which the matter proceeded before the Trial Court pursuant to the judgment and order dated 15.10.1996 passed by the High Court of Judicature at Madras in Second Appeal No.1291/1996.
3. Vide that order, the High Court had opined that the suit document (Exhibit B-2) dated 20.01.1981, even if cannot be regarded as a partition deed, whether it is in the nature of transfer in the form of sale or gift, is a matter which needs to be adjudicated. With this finding, the parties stood relegated before the

Trial Court. When the matter proceeded before the Trial Court, it is the respondent-plaintiff who chose to amend the plaint to assert that the stated document cannot be regarded as a gift deed, including that it is not a valid gift.

4. The appellant, who was relying on the document, did not opt to amend the written statement to alter his stand taken in the original written statement that the document was a "partition deed/family arrangement" executed by his mother in favour of the appellant and his father. Significantly, the High Court whilst remanding the matter to the Trial Court had rejected the stand so taken by the appellant in his written statement.

5. It is also noticed that the Trial Court as well as the Appellate Court eventually found that the appellant was unable to substantiate the factum of suit document being a valid gift deed. Because of this concurrent finding of fact after remand, on this occasion the High Court declined to interfere in exercise of its jurisdiction by way of second appeal, which is

the judgment assailed in the present appeal.

6. After perusing the relevant pleadings and evidence on record, we have no hesitation in taking the view that after remand, the appellant was obliged to amend his written statement so as to specifically plead about compliances of pre-requisites for execution of a valid gift deed in the context of stipulations specified therefor in Chapter VII of the Transfer of Property Act, 1882. Additionally, the appellant was obliged to produce evidence and examine witnesses, particularly, attesting witnesses to establish and prove the facts pleaded in the amended written statement including in terms of the Indian Evidence Act, 1872.

7. The basic obligation regarding essential pleading in support of the plea as to why the suit document be regarded as a valid gift deed has not been discharged by the appellant in this case, which itself was sufficient for the Trial Court to negative the issue remitted by the High Court for reconsideration.

8. In any case, the Trial Court and the

Appellate Court having concurrently found that the appellant failed to prove the factum of document being a valid gift deed, no interference with that finding of fact is warranted in the present case, no matter the attractive propositions canvassed before us by Shri V. Raghavachari, learned counsel for the appellant, to persuade us to overturn the concurrent view of the three Courts on this aspect. Hence, we dismiss this appeal. Ordered accordingly.

No order as to costs.

....., J.
(A.M. KHANWILKAR)

....., J.
(DINESH MAHESHWARI)

....., J.
(SANJIV KHANNA)

NEW DELHI
MARCH 09, 2021.

ITEM NO.101 Court 5 (Video Conferencing) SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7293/2016

SEENAPPA Appellant(s)

VERSUS

R. KRISHNAPPA (DEAD) BY LRS. & ORS. Respondent(s)

IA No. 5/2014 - STAY APPLICATION)

Date : 09-03-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s) Mr. V. Raghavachari, Adv.
 Ms. K. Abhirame, Adv.
 Mr. G. Balaji, AOR

For Respondent(s) Ms. Shobha Ramamoorthy, AOR

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

The appeal is dismissed in terms of the
signed order.

In view of the above, all pending
applications shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)