

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4428 OF 2011

S.RATNA

Appellant(s)

VERSUS

SRI SRI SRI SHIVAKUMAR SWAMYGALU & ANR.

Respondent(s)

O R D E R

Heard the learned counsel for the parties.

Upon hearing the learned counsel and upon perusal of the impugned judgment, we find that respondent no.1 has already filed a Civil suit bearing O.S. No. 101 of 2005 in the Court of Civil Judge Chikkaballapur, so as to establish his right in respect of the suit property. It is also pertinent to note that a compromise decree had been passed earlier in proceedings between the present appellant and respondent no.2 in respect of the suit property. Respondent No.1 would also like to challenge the validity of the said compromise decree in the Suit bearing O.S. No. 101 of 2005, which has already been filed by him and if he thinks it proper he may do so by amending the plaint.

In view of the afore-stated fact, in our opinion, the High Court should not have entertained the appeal filed by

respondent no. 1. We, therefore, set aside the impugned judgment delivered by the High Court. We do not express any opinion on merits while dismissing the appeal filed by respondent no. 1 in the High Court as he has already filed a suit which is pending as said hereinabove.

We also direct that the civil suit bearing O.S. No. 101 of 2005 pending in the Court of Civil Judge Chikkaballapur shall be decided on merits without being influenced by any observation made by any court.

The appeal is allowed with no order as costs.

.....J
(ANIL R. DAVE)

.....J
(ADARSH KUMAR GOEL)

NEW DELHI
February 17, 2016

ITEM NO.104

COURT NO.2

SECTION IVA

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). 4428/2011

S.RATNA

Appellant(s)

VERSUS

SRI SRI SRI SHIVAKUMAR SWAMYGALU & ANR.

Respondent(s)

(with appln. (s) for permission to file additional documents and exemption from filing O.T. and office report)

Date : 17/02/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE ADARSH KUMAR GOELFor Appellant(s) Mr. Shanth Kumar V. Mahale, Adv.
Mr. Amith, Adv.
Mr. Rajesh Mahale, Adv.For Respondent(s) Mr. S.S. Javali, Sr. Adv.
Mr. P. R. Ramasesh, Adv.
Mr. Abdul Azeem K., Adv.UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(NEELAM GULATI)
COURT MASTER(CHANDER BALA)
COURT MASTER

(Signed Order is placed on the file)