

ITEM NO.109

COURT NO.8

SECTION XIA

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). 2001/2012

JANAKI AMMA & ORS.

Appellant(s)

VERSUS

K.SARADAMMA & ORS.

Respondent(s)

(with office report)

Date : 10/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s)

Mr. Nishe Rajen Shonker, Adv.
Mr. Mohd. Sadique, Adv.

For Respondent(s)

Mr. K. Rajeev, Adv.

UPON hearing the counsel the Court made the following
O R D E RThe appeal is dismissed in terms of the signed
order.(SUMAN WADHWA)
AR-cum-PS(ASHA SONI)
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2001 OF 2012

Janakiamma & Ors. ...APPELLANT(S)

VERSUS

K. Saradamma & Ors. ...RESPONDENTS

O R D E R

1. The defendant who has lost in all the Courts below including the High Court in second appeal is aggrieved by the decree passed against him.

2. The claim of the plaintiff in the suit was in respect of the schedule property over which he claims to have obtained absolute rights by virtue of sale deed dated 26.10.1973 (Ext. A1) and thereafter to be in possession of the same. According to the plaintiff the defendants who have got property adjacent to the suit property have wrongfully claimed part of

the plaint property and had also obstructed the plaintiff from enjoyment thereof. Accordingly, the suit for title, possession with other consequential reliefs was instituted before the learned Trial Court.

3. The defendants resisted the suit by contending that the suit property was not in the possession of the plaintiff and is actually a part of the Kudikidappu obtained by him.

4. It appears that a local Commissioner was appointed by the Court to cause a survey and verification of the suit property and report thereof was submitted before the Court which was exhibited as Ext. C1 and c1(a).

5. The defendants disputed the correctness of the report of the Court-appointed Commissioner and the sketch enclosed. However, in

cross-examination the defendant had admitted their claim to only 10 cents of land while admitting the right and title of the plaintiff to the remaining portion i.e. 59 cents. The two areas i.e. 10 cents and 59 cents which belonged to a common owner had come down to the plaintiffs by sale and the defendant by way of a Kudikidappu were clearly earmarked in the sketch prepared by the Local Commissioner. The Local Commissioner tendered his evidence in the case and was cross-examined by the defendant. The learned trial court found the objections of the defendant to the Commissioner's report to be untenable and accordingly thought it proper to decree the suit of the plaintiff which decree has been affirmed in the first appeal filed by the defendants as well as in second appeal out of which this appeal has arisen.

6. No question(s) of law arises for our consideration in the present appeal. The issues arising stand concluded by findings of fact and the disputes raised stands determined by the report of the Commissioner [Ext. C1 and C1(a)]. No fault can be found in the said report. In view of the above, we do not find any merit in this appeal. It is accordingly dismissed but without any order as to cost.

.....,J.
(RANJAN GOGOI)

.....,J.
(N.V. RAMANA)

NEW DELHI
SEPTEMBER 10, 2015