

ITEM NO.41

COURT NO.6

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

Petition(s) for Special Leave to Appeal (Civil) No(s).3493-3494/2010

(From the judgement and order dated 31/08/2009 in RFA No.187/2002,RFACR No.12/2009 of The HIGH COURT OF KARNATAKA AT BANGALORE)

H.P. VIJAYASHEELAMMA

Petitioner(s)

VERSUS

H.P. SWAMY GANESHA(D) BY LRS.&amp; ORS.

Respondent(s)

(With prayer for interim relief )

Date: 23/03/2012            These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s)            Mr. G.V. Chandrashekar, Adv.  
   Mr. N.K. Verma, Adv.  
   Ms.Anjana Chandrashekar,Adv.(Not present)

For Respondent(s)            Ms. Kiran Suri,Adv.  
   Ms. Aparna Mattoo, Adv.  
   Mr.Nakibur Rahman Barbhuiya, Adv.

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

These petitions are directed against judgment dated 31.08.2009 of the learned Single Judge of the Karnataka High Court, whereby he partly allowed the appeal preferred by the respondent no.1, set aside the finding recorded by the trial Court on issue no.5 and remitted the matter to the trial Court for deciding that issue afresh after giving

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opportunity to the parties to adduce evidence.

We have heard Shri G.V. Chandrashekar, learned counsel for the petitioner and Ms. Kiran Suri, learned counsel for the respondent no.1 at length and perused the record.

At the end of his submissions, Shri Chandrashekar

made a request that his client may be permitted to withdraw the Cross Objections filed before the High Court with liberty to raise all legally permissible contentions before the trial Court and, if necessary, before the High Court with reference to the amendment made in the Hindu Succession Act, 1956 by the Amendment Act of 2005.

Ms. Kiran Suri, learned counsel for the respondent No.1 says that she does not have any objection if the request made by Shri Chandrashekar for withdrawal of the Cross Objections with liberty to raise the contention with reference to the amendment made in the Hindu Succession Act in 2005 is accepted.

In view of the above, the request of Shri Chandrashekar is accepted and the petitioner is allowed to withdraw the Cross Objections with liberty in terms of the prayer made.

As regards the remand of the matter to the trial Court for fresh determination on issue no.5, we do not find any error in the impugned judgment.

The special leave petitions are accordingly disposed of.