

ITEM NO.14

COURT NO.3

SECTION IV-A

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 (C) No(s). 13663/2020

(Arising out of impugned final judgment and order dated 28-01-2020 in RFA No. 100021/2015 passed by the High Court of Karnataka Circuit Bench at Dharwad)

BHARMU TAMANNA DHARMANAVAR & ANR.

PETITIONER(S)

VERSUS

SUSHILABAI @ BEBU

RESPONDENT(S)

(FOR ADMISSION and IA No.117996/2020-EXEMPTION FROM FILING
AFFIDAVIT

IA No. 117996/2020 - EXEMPTION FROM FILING AFFIDAVIT)

Date : 27-01-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Ganesh Kumar R., AOR
Mr. Manjunath Meled, Adv.
Mr. Sandeep Sharma, Adv.
Mrs. Vijayalaxmi Udapudi, Adv.

For Respondent(s) Ms. Supreeta Sharanagouda, AOR
Mr. Sharanagouda Patil, Adv.

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

By the impugned judgment, the High Court has referred to Order 41 Rule 22 of The Code of Civil Procedure, 1908 (for short CPC) while dealing with the appeal filed by the petitioners and modified the share of the respondent-plaintiff from 1/4th to 1/3rd. The High Court also refers to Order 41 Rule 31 of CPC. While we agree with

the petitioners that in the absence of cross objection or cross appeal or an independent appeal, the Appellate Court should not ordinarily set aside or modify the decree of the Court from which the appeal is maintained and grant relief other than that has been granted by it and Order 41 Rule 31 of CPC also does not relate to the power of the Appellate Court. We would take it that this is a case where the power is exercised under Order 41 Rule 33 of CPC. In the nature of the change that has been brought about by the impugned decree and the circumstances in which it has been supported, we do not think that we should in the facts of this case interfere with the impugned judgment. The special leave petition is dismissed.

Pending application(s), if any, stand disposed of.

(JAGDISH KUMAR)
COURT MASTER (SH)

(NISHA TRIPATHI)
ASSISTANT REGISTRAR