

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). 11640/2020

(Arising out of impugned final judgment and order dated 16-12-2019 in RSA No. 518/2012 passed by the High Court of Karnataka at Bengaluru)

A. BASAVARAJU & ORS.

Petitioner(s)

VERSUS

B. MANJULA

Respondent(s)

(FOR ADMISSION and IA No.98150/2020-EXEMPTION FROM FILING O.T.)

Date : 27-11-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Sanjay Parikh, Sr. Adv.
Mr. Pukhrambam Ramesh Kumar, AOR

For Respondent(s)

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

Application for exemption from filing official translation is allowed.

Learned senior counsel for the petitioners submits that the petitioner No.1 was married to M.S. Susheelamma on 02.05.1980 and there are two children from the marriage who are petitioner Nos.2 and 3. The wife is still living. The alleged marriage with the mother of the petitioner is also stated to be on 2.5.1980 (respondent claims Susheelamma is her monther and later on Petitioner

No.1 married one Susheela from which petitioner Nos. 2 and 3 were born). The petition for divorce by consent filed in 4.1.2000 (though in the impugned order it is mentioned as 1980) was not signed by the parties but only by the counsels which has been relied upon in evidence. This petition was dismissed only on 20.12.2006. The suit for partition was filed by the respondent prior to that on 07.08.2006 and in this suit proceedings, the alleged wife of the petitioner No.1 and mother of the respondent was not produced as her whereabouts were not known. It is further submitted that the respondent is the daughter of the sister of petitioner No.1.

Learned senior counsel for the petitioners also submits that an application was moved for DNA test by the respondent which was allowed but the DNA test was never carried out and that aspect has been dealt with at page 107 by the appellate Court by putting the burden on the petitioner No.1.

On a Court query, learned senior counsel for the petitioners submits that the petitioner No.1 is still willing to go through a DNA test to put a quietus to this issue as the right of the respondent in the property emanates only from being the daughter of the petitioner No.1.

Issue notice returnable in the reopening week after winter recess.

A copy of the order to accompany the notice.

(ANITA MALHOTRA)
COURT MASTER

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR