

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2080 Of 2020
(Arising out of SLP(C)No.22695/2015)

RAJAN SAM

Appellant(s)

VERSUS

SHANKAR S.R. & ORS.

Respondent(s)

O R D E R

Leave granted.

The appellant filed a civil suit for a declaration that the compromise decree dated 11.07.2007 in O.S. No.861 of 2007 and the final decree in the said suit are not binding on him. He also sought a permanent injunction restraining the defendants therein from interfering with the peaceful enjoyment of suit A and B properties. The suit was decreed on 28.07.2014. In the appeal filed by the respondents, the High Court of Karnataka set aside the judgment and decree of the Civil Court. The main ground on which the appeal was allowed pertains to the maintainability of the suit in view of the express bar under Order 23 Rule 3 A of the CPC. Though there is some discussion on the merits of the case, the appeal has not been decided in accordance with Order 41 Rule 31 read with 96 of the CPC.

The appellant has contended that there was collusion between the parties to OS.No.861 of 2007. He was not a party to the said suit. We are not in agreement with the High Court that suit is not maintainable. We are of the opinion that the suit is maintainable and the High Court ought to have decided the appeal in accordance with Order 41 Rule 31 CPC by framing the points for determination and giving the reasons for the decision thereon.

Therefore, we set aside the judgment of the High Court and remand the appeal for a decision on merits. As the suit was filed in the year 2012, the High Court is requested to expedite the first appeal.

The interim order granted by this Court vide order dated 24.08.2015 shall continue during the pendency of the appeal. All questions are left open.

The appeal is allowed, accordingly. Pending application, if any stand disposed of.

.....J
(L. NAGESWARA RAO)

.....J
(HEMANT GUPTA)

NEW DELHI;
06th March, 2020

ITEM NO.32

COURT NO.9

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).22695/2015

(Arising out of impugned final judgment and order dated 17-03-2015 in RFA No.1390/2014 passed by the High Court Of Karnataka At Bengaluru)

RAJAN SAM

Petitioner(s)

VERSUS

SHANKAR S.R. & ORS.

Respondent(s)

Date : 06-03-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. Nikhil Nayyar, Sr. Adv.
Ms. Monisha Handa, Adv.
Mr. Divyanshu Rai, Adv.
Mr. Mohit D. Ram, AOR

For Respondent(s) Mr. S.K. Jain, Sr. Adv.
Ms. Revathy Adinath Narde, Adv.
Mr. Puneet Jain, Adv.
Ms. Christi Jain, Adv.
Mr. Harshit Khaduja, Adv.
Mr. Harsh Jain, Adv.
Ms. Pratibha Jain, AOR

Mr. D. Srinivas, Adv.
Ch. Leela Sarveswar, Adv.
Ms. C. Rubavathi, Adv.
Mr. M. A. Chinnasamy, AOR
Mr. V. Senthil Kumar, Adv.
Mr. P. Raja Ram, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order. Pending applications, if any stand disposed of.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master

(Signed order is placed on the file)