

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 1312-1313/2020  
( @ Special Leave to Appeal (C) No(s).9938-9939/2016)

PRABHAVATI SINCE DEAD BY HER LRS AND ORS. ETC Appellants(s)

VERSUS

LAXMIBAI DEAD BY LRS ETC

Respondent(s)

WITH

CIVIL APPEAL NO(S). 1314/2020  
(@ SLP(C) No.28763/2016)

O R D E R

Leave granted.

The suit filed for partition by the respondent was decreed in respect of Schedule A and Schedule B properties. In the Appeal filed by the Appellants, the High Court of Karnataka, Dharwad Bench held that the land falling in Schedules A and B has already been resumed by the State Government and that no application for re-grant has been filed. In terms of Section 5 (2) of the Karnataka Village offices Abolition Act, 1961, failure to pay the occupancy price would result in the holders of the land being treated as unauthorised occupants. The High Court was of the opinion that in the absence of an application for re-grant, the State Government is entitled to take possession of the land.

The learned counsel appearing for the appellant brought to our notice that an issue regarding the

resumption of land by the State Government or regarding any application made for re-grant of the land was not framed by the trial court. The learned counsel produced the proceeding dated 27.12.1968 issued by the Assistant Commissioner in support of his submission that the application filed for re-grant was allowed by the State Government.

The other issues arising in the Appeal were not adjudicated by the High Court in view of the findings recorded on the resumption of lands by the Government. We are not in agreement with the High Court as the resumption of lands by the Government and the applications for re-grant are not issues before the trial court. Neither the Appellant nor the Respondent raised them in the Appeal.

Therefore, we set aside the judgment of the High Court and remand the Appeals for consideration of all the issues raised in the Appeal. It is open to the High Court to frame additional issues, if required. The appeals are, accordingly, allowed. Pending application, if any, stands disposed of.

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

.....J  
(HEMANT GUPTA)

NEW DELHI;  
10<sup>th</sup> February, 2020



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

SLP(C) Nos.9938-9939/2016 and SLP(C) No.28763/2016 :

Leave granted.

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

SLP(C) No.5460/2019:

The learned counsel for the petitioner seeks and is granted permission to withdraw this Special Leave Petition to pursue their remedies for intervention before the High Court.

(B.Parvathi)  
Court Master

(Anand Prakash)  
Court Master

(Signed order in SLP(C)Nos.9938-9939/2016 and SLP(C)No. 28763/2016 is placed on the file)