

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.233 OF 2020
(Arising out of SLP(C) No.24848 of 2018)

NAGARATNA H. & ORS.

APPELLANT(S)

VERSUS

SAROJA & ORS.

RESPONDENT(S)

O R D E R

Today also no one appears on behalf of the respondents.

Leave granted.

The present appeal arises from a second appeal filed by the defendants before the High Court.

The appellants' partition suit was decreed. The first appeal preferred by the defendants was dismissed.

We have heard counsel for the appellants and are satisfied that the impugned order in the present form is not sustainable. The High Court could not have modified the decree under appeal at the behest of the defendants without framing any substantial question of law in a second appeal.

On that ground alone we set aside the impugned

order, allow the appeal and remand the matter to the High Court for disposing the second appeal afresh in accordance with law.

.....J.
(NAVIN SINHA)

.....J.
(KRISHNA MURARI)

New Delhi;
January 13, 2020

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). 24848/2018

(Arising out of impugned final judgment and order dated 21-09-2017 in RSA No. 100152/2016 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

NAGARATNA H. & ORS.

Petitioner(s)

VERSUS

SAROJA & ORS.

Respondent(s)

Date : 13-01-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s)

Mr. Gurudatta Ankulekar, AOR
Mr. Dayali Elangbam, Adv.
Mr. Rajendra Koushak, Adv.

For Respondent(s)

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 application(s), if any, stands disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(DIPTI KHURANA)
COURT MASTER (NSH)

(signed order is placed on the file)