

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6674 OF 2018  
(Arising out of SLP (Civil) No. 643 of 2011)

PARVATI AND ORS. ... Appellant (s)

Versus

SANGAYYA AND ORS. ... Respondent (s)

O R D E R

Leave granted.

In the present case, a suit for specific performance of oral agreements which, according to the plaintiff, were understanding between the parties in the 1960's, was filed on 23.03.1993. Since defendant Nos. 1 to 3 had already sold out their part, they were obviously not interested in contesting the suit. The only person contesting the suit was defendant No. 4, who was the person who had purchased the suit property from defendant No. 3.

The learned Additional Munsiff, by his judgment dated 16.11.1995, recorded the fact that defendant Nos. 1 to 3 have filed their written statements, but had chosen not to contest the suit. After noting that

defendant No. 4 has yet to file his written statement, the Court went on to hold that there is no need of recording the evidence of the plaintiff as admitted facts need not be proved by the plaintiff, and went ahead and decreed the suit.

A first appeal was dismissed for non-prosecution on 27.10.2000, and an I.A. to set-aside the order of 27.10.2000 was rejected on 06.12.2006. An appeal filed before the High Court yielded the same result, by the impugned order dated 13.08.2010.

Having heard learned counsel for the parties, we are of the view that, given the facts of the present case, the learned Additional Munsiff was completely wrong in going ahead and decreeing the suit on the basis that defendant Nos. 1 to 3 had admitted the plaintiff's case. Defendant No. 4, who was negligent in not filing a written statement, was certainly contesting the suit. There is no doubt whatsoever that defendant No. 4 has been tardy in prosecuting the proceedings in the courts below. However, that does not absolve the court itself from passing a reasoned order based on the evidence adduced by the plaintiff, particularly, in a case where oral agreements are relied upon. This being the case, we restore the suit to the file and set-aside the impugned order. Since the suit is of the year 1993,

we direct the Additional Munsiff to hear the parties and decide the suit within a period of six months from today.

Given the fact that the appellant has been tardy throughout, costs of Rs. 50,000/- be paid to the respondents within a period of four weeks from today.

The appeal is disposed of accordingly.

Pending applications, if any, shall stand disposed of.

.....J.  
(ROHINTON FALI NARIMAN)

.....J.  
(INDU MALHOTRA)

New Delhi,  
Dated: 13<sup>th</sup> July, 2018.

ITEM NO.54

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). 643/2011

(Arising out of impugned final judgment and order dated 13-08-2010 in MFA No. 4024/2007 13-08-2010 in MFA No. 4024/2007 13-08-2010 in MFA No. 4024/2007 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

PARVATI . &amp; ORS.

Petitioner(s)

VERSUS

SANGAYYA . &amp; ORS.

Respondent(s)

Date : 13-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. Basava Prabhu S.Pattil, Sr. Adv.  
Mr. Chinmay Deshpande, Adv.  
Mr. Geet Ahuja, Adv.  
Ms. Rachita Herimath, Adv.  
Mr. V. N. Raghupathy, AOR

For Respondent(s) Mr. Sharanagouda Patil, Adv.  
M/S. S-legal Associates, AOR

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

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(SHASHI SAREEN)  
AR CUM PS

(SAROJ KUMARI GAUR)  
BRANCH OFFICER

(Signed order is placed on the file)