

ITEM NO.13

Court 6 (Video Conferencing)

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.3899/2021

(Arising out of impugned final judgment and order dated 18-01-2021 in CRP No.100089/2019 passed by the High Court of Karnataka Circuit Bench at Dharwad)

SRIHARI HANUMANDAS TOTALA

Petitioner(s)

VERSUS

HEMANT VITHAL KAMAT & ORS.

Respondent(s)

(FOR I.R.)

Date : 08-03-2021 This petition was called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH**

For Petitioner(s)

Mr. Tarun Gupta, AOR

For Respondent(s)

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

- 1 Mr Tarun Gupta, learned counsel appearing on behalf of the petitioner submits that:
 - (i) The predecessor in title of the petitioner was an auction purchaser, at an auction which was held by the Karnataka State Financial Corporation;
 - (ii) The predecessor of the petitioner instituted Original Suit No 103/2007 for possession of the suit property;

- (iii) The previous suit was decreed by the trial court (Annexure P-3) and the judgment was confirmed in appeal by the High Court (Annexure P-5);
- (iv) In the previous suit to which the respondent was impleaded as the second defendant, a specific issue was raised in regard to the validity of title which was answered against him; and
- (v) Consequently, the fresh suit which has been filed by the respondent is barred by the principles of *res judicata*.

- 2 On the above premises, it has been submitted that the provisions of Order 7 Rule 11(d) were correctly invoked by the petitioner and the High Court has erred in coming to the conclusion that the application was not maintainable.
- 3 Issue notice, returnable in eight weeks.
- 4 Dasti, in addition, is permitted.
- 5 Counter affidavit shall be filed within a period of four weeks from the date of service of the notice.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master