

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 9761 OF 2018
(Arising out of SLP (C) No. 8006 of 2018)

P. VENKATA RAMANAPPA

Appellant(s)

VERSUS

K.C. VENNAPPA @ SAMANNA & ORS.

Respondent(s)

O R D E R

Leave granted.

None present for the respondents though served. Plaintiff-appellant filed a suit for specific performance before the trial court against defendant Nos. 1 to 3 and impleading defendant nos.4 and 5 as well. Plaintiff claimed that he had the prior agreement dated 20th February, 2009 in his favour executed by the predecessors of defendant nos. 1 to 3 before sale made to defendant Nos. 4 & 5 vide registered sale deed on 08.04.2009.

The suit was filed by the plaintiff arraying all of them as parties. While making prayer in the relief clause it was prayed that defendant Nos. 1 to 3 be directed to execute the sale deed in his favour. The

suit was partly decreed vide the judgment and decree dated 6.5.2014 in O.S. No. 18 of 2010.

Aggrieved thereby the plaintiff preferred an appeal. During the course of appeal the application was moved seeking amendment under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (in short 'the Code') in which prayer was made to seek a decree against defendant nos. 1 to 5 for execution of the sale deed by substituting respondent nos. 1 to 5 in place of defendant nos. 1 to 3. The prayer has been disallowed by the first appellate court.

Aggrieved by the order passed by the first appellate court, Civil Revision was preferred in the High Court. The High Court by the impugned order has dismissed the Civil Revision. Aggrieved thereby the appeal has been preferred in this Court.

After hearing learned counsel for the appellant, we are of the opinion that since the respondents were arrayed as defendant nos.1 to 3 and 4 & 5, before the trial court there was omission on the part of the counsel to pray the relief against the defendant nos. 4 & 5 it ought to have been prayed as against defendant nos. 4 to 5 for which plaintiff could not be made to suffer. Appellate Court ought to have allowed the

application for amendment. We allow the application subject to the just objection that may be raised by the defendants in written statement.

The impugned order is set aside, we request the court to decide the appeal in accordance with law.

The appeal is allowed. No costs.

.....J.
(ARUN MISHRA)

.....J.
(VINEET SARAN)

NEW DELHI;
SEPTEMBER 19, 2018

ITEM NO.16

COURT NO.8

SECTION XII-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). 8006/2018

(Arising out of impugned final judgment and order dated 14-06-2017 in CRP No. 6052/2016 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh)

P. VENKATA RAMANAPPA

Petitioner(s)

VERSUS

K.C. VENNAPPA @ SAMANNA & ORS.

Respondent(s)

Date : 19-09-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. D. Bharat Kumar, Adv.
Mr. Tadimalla Baskar Gowtham, Adv.
Mr. Aman Shukla, Adv.
Mr. Sayooj Mohandas M., Adv.
Mr. Vishal Arun, AOR

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, if any, also stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)