

SUPREME COURT OF INDIA

Ananta Kalappa Jaratakhane

Vs.

Krishtappa

(S.B. Majmudar and D.P.Mohapatra JJ.)

03.01.2000

ORDER

S.B. MAJMUDAR, J.

1. Leave granted

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2. We have heard learned Counsel for the parties finally in this appeal.

3. As respondent No. 1 is the only con testing party his learned Counsel is heard on merits. Having carefully gone through the judgment under appeal we find that with respect the learned Judge while deciding the Second Appeal had not kept in view the limited jurisdiction and the procedure required to be followed under Section 100, CPC (C.P.C.). To say the least the judgment under appeal is totally unsustainable. Only on this short ground and without going further into the merits of the matter this appeal is allowed. The judgment and order in Second Appeal No. 609 of 1996 are set aside and the Second Apt peal is restored to the file of the High Court with a request to re-decide the same in accordance with law after following the procedure and in the light of limited jurisdiction available under Section 100, C.P.C. As the Second Appeal is of 1996 the High Court may make it convenient to dispose of the same at the earliest.

4. No costs.