

SUPREME COURT OF INDIA

Kempaiah (Dead) By Lrs.

Vs.

Doddanaraiah

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

13.01.2000

ORDER

S.B. MAJMUDAR, J.

1. Leave granted.

2. We have heard learned Counsel for the appellant as well as learned Counsel for respondent nos. 1 to 3, who are the only contesting respondents being the plain tiffs in whose favour decree for injunction was passed by the Second Appellate Court.

3. Having gone through the impugned judgment we find that the learned Judge who decided the Second Appeal, with respect, has not kept in view the limited jurisdiction available to him under Section 100, CPC (C.P.C.).

4. Only on this short ground and without expressing any opinion on the merits of the controversy between the parties this appeal is allowed. The impugned judgment is set aside. R.S.A. No. 794 of 1993 is restored to the file of the High Court with a request to re-decide the same in accordance with law after hearing the parties, keeping in view the limited jurisdiction available to the High Court under Section 100 C.P.C. and after following the procedure laid down therein.

5. No costs.