

SUPREME COURT OF INDIA

Nagashetty (D) By Lrs.

Vs.

Vijay Kumar

C.A.No.4776 of 2009

(R.V.Raveendran and B.Sudershan Reddy JJ.)

27.07.2009

ORDER

1. Leave granted. Heard the learned counsel.
2. This appeal is filed against the judgment dated 16/8/2006 passed by the High Court of Karnataka in RFA No.5/2004. The said appeal was filed by the defendants 1 to 4 in O.S. No.48/1992 on the file of the Principal Civil Judge, Sr. Division, Bidar which was a suit for partition and separate possession.
3. The trial Court, while decreeing the suit, held that the plaintiffs 1 and 2 (respondents 1 and 2 herein) are entitled to partition and separate possession of their 1/6th share each in the suit schedule properties by metes and bounds. It also held that defendants 6 and 7 (respondents 4 and 5 herein) were bonafide purchasers for valuable consideration of item(3) property in the suit A schedule and that the said property shall be allotted to the share of the first defendant of whom appellants 1(a) to (c) are the legal representatives. The trial Court also ordered rendition of accounts with certain other directions.
4. Defendants 1 to 4 in the suit filed a first appeal before the High Court raising several grounds relating to fact as well as law. The said appeal which had been earlier admitted for final hearing, has been dismissed by a very short judgment. The court has neither formulated the points nor discussed the evidence.
5. As the High Court has not considered and disposed of the appeal in a manner in which regular first appeals are expected to be decided, we allow this appeal, set aside the judgment and decree and remand the matter to the High Court for fresh disposal in accordance with law.