

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2023
(@ SPECIAL LEAVE PETITION (C) NO. 10809/2021)

YALLANSA AND OTHERS

.....

APPELLANTS

VERSUS

AMBASA AND OTHERS

.....

RESPONDENTS

O R D E R

Leave granted.

Application for substitution is allowed, subject to curing of defects. Cause title be amended accordingly.

The plaintiffs are the appellants. They had filed a suit (1) for a declaration of title to suit A Schedule property and (2) for a declaration that the revenue entries are null and void. Alternatively the appellants prayed for partition and separate possession.

The trial court dismissed the suit. While confirming the same on a regular first appeal, the High Court imposed exemplary cost of Rs.10,00,000/- on the appellants. This was on the ground that there was an oral partition in the year 1946 and that there was a second partition in the year 1949 and that it is sought to be reopened after 50 years.

Even assuming that the appellate court found the case of the appellants to be frivolous, the court could not have imposed exemplary cost of Rs.10,00,000/- considering the nature of relationship between the parties and the nature of the partition that had taken place allegedly in 1946 and 1949.

Therefore, while issuing notice in the Special Leave Petition on 23.07.2021, we restricted the notice only to the extent of imposition of exemplary cost of Rs.10,00,000/-

In view of the above, the appeal is allowed partly, setting aside only that portion of the impugned judgment relating to exemplary cost of Rs.10,00,000/-

Though learned counsel for the appellants contended that the ordinary cost throughout has been quantified at a higher amount by the Executing Court, the same cannot form the subject matter of this appeal. All objections relating to the quantification of actual costs should be made only before the appropriate Court.

Pending application(s), if any, shall stand disposed of.

.....J.
(V. RAMASUBRAMANIAN)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
MAY 17, 2023.
ps

ITEM NO.39

COURT NO.13

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 10809/2021

(Arising out of impugned judgment and order dated 23-03-2021 in RFA No. 100186/2016 passed by the High Court Of Karnataka Circuit Bench At Dharwad)

YALLANSA AND OTHERS

PETITIONERS

VERSUS

AMBASA AND OTHERS

RESPONDENTS

(IA D. No. 100089/2023 - APPLICATION FOR SUBSTITUTION, IA D.No. 100082/2023 - APPLICATION FOR TAKING ON RECORD ADDL. DOCUMENTS, IA No. 81880/2021 - EXEMPTION FROM FILING O.T., IA D.No. 100086/2023 - STAY APPLICATION)

Date : 17-05-2023 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN
HON'BLE MR. JUSTICE PANKAJ MITHAL**

For Petitioner(s)

**Mr. Deepak Prakash, AOR
Mr. Pawan Kr. Dabas, Adv.
Mr. Raneev Dahiya, Adv.
Mr. Nachiketa Vajpayee, Adv.
Ms. Divyangna Malik, Adv.
Ms. Vishnu Priya, Adv.
Mr. Shyam Nair, Adv.
Mr. Rahul Lakhera, Adv.
Mr. Parag Sirohi, Adv.**

For Respondent(s)

**Mr. Abdul Azeem Kalebudde, AOR
Mrs. Taherabi Kalebudde, Adv.

Mr. Pai Amit, AOR
Ms. Pankhuri Bhardwaj, Adv.
Ms. Ranu Purohit, Adv.
Mr. Abhiyudaya Vats, Adv.**

Mr. Darpan Km, Adv.
Ms. Amrita Sharma, Adv.
Mr. Rajat Jonathan Shaw, Adv.
Ms. Rashi Bansal, AOR

Mr. B. Ragunath, Adv.
Mrs. N.C. Kavitha, Adv.
Mr. Vijay Kumar, AOR

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

Leave granted.

Application for substitution is allowed, subject to curing of defects. Cause title be amended accordingly.

The appeal is partly allowed in terms of the signed order.

Pending application(s), if any shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file.)