

Chikke Gowda and Another Vs. L. Govinde Gowda

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Court : Karnataka

Decided On : Jul-18-2000

Reported in : ILR2000KAR3955; 2001(1)KarLJ194

Judge : B.K. Sangalad, J.

Acts : [Registration Act, 1908](#) - Sections 17(1) and 49

Appeal No. : Civil Revision Petition No. 793 of 2000

Appellant : Chikke Gowda and Another

Respondent : L. Govinde Gowda

Advocate for Def. : Sri L. Govinde Gowda for self-defence

Advocate for Pet/Ap. : Sri S.V. Narayana Murthy, Adv.

Judgement :

ORDER

1. This revision is directed against the order dated 22-1-2000 passed by the learned Civil Judge (Junior Division), Holenarasipur, while the evidence was being recorded in O.S. No. 94 of 1995.

2. The respondent has filed a suit for partition against the petitioners. The respondent and the petitioner 1 are the brothers. While the evidence was being recorded the palapatti (Memorandum of partition) was sought to be marked on the

defendant-petitioners side, the lower Court rejected on the ground that it requires registration, as such it is inadmissible.

3. Mr. S.V. Narayana Murthy, learned Counsel for the petitioner relies upon the decision in the case of Siromani v Hemkumar and Others, wherein it is stated as follows:

'Registration Act (1908), Section 17(l)(b) -- Applicability -- Document effecting partition of joint family properties and value of more than Rs. 100 by metes and bounds -- Registration compulsory -- In absence of such registration it is inadmissible to prove title of any of the coparceners to any of the property -- Such document is, however, admissible to prove an intention of coparceners to become divided in status -- Nani Bai v Gita Bai Kom Rama Gunge, rel. on; Second Appeal Nos. 569 and 568 of 1960, DD: 8-11-1963 (Madhya Pradesh), reversed'.

4. According to this decision, such document is admissible to prove an intention of coparceners to become divided in status. The present document also may be used only for such purpose. At this stage, in view of this decision, this document be permitted to be marked on behalf of the defendants. The lower Court is directed to record its findings taking aid of this decision cited supra at the time of final disposal of the suit. With this observation, the revision petition is allowed and the impugned order is set aside. The petitioner-defendants are permitted to produce the document.