

Sunanda Vs. Lakshmi Bai

Sunanda Vs. Lakshmi Bai

SooperKanoon Citation : sooperkanoon.com/380520

Court : Karnataka

Decided On : Sep-06-1985

Reported in : ILR1986KAR995

Judge : Nesargi, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 151 - Order 41, Rules 12, 14, 18 and 19 - Order 9, Rule 5 and 5(2)

Appeal No. : RSA No. 693 of 1981

Appellant : Sunanda

Respondent : Lakshmi Bai

Advocate for Def. : R.U. Goulay, Adv. for R-2;Sona G. Vakkund, Adv.

Advocate for Pet/Ap. : S.K. Kulkarni, Adv.

Judgement :

ORDER

41 Rule 19 -- Provides remedy in case of dismissal under Rule 18 -- Appeal already admitted cannot be dismissed under Order 9 Rule 5.

If an appeal is dismissed under Order 41 Rule 18 CPC a right is given to the party aggrieved under Order 41 Rule 19 CPC. In regard to the dismissal of the suit, the remedy is provided in Older 9 Rule 5(2) of CPC. It, therefore, follows that an

appeal which has been already admitted cannot in law be dismissed for non-prosecution by applying the provisions of Order 9 Rule 5 CPC.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com