

**Sanjeevamma Vs. Annyappa**

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**SooperKanoon Citation :** [sooperkanoon.com/385497](http://sooperkanoon.com/385497)

**Court :** Karnataka

**Decided On :** Mar-12-1991

**Reported in :** ILR1991KAR4544

**Judge :** Hanumanthappa, J.

**Acts :** [Code of Civil Procedure \(CPC\) , 1908](#) - Order 39 Rules 1 and 2 - Order 43, Rule 1; Karnataka Minor Mineral Concession Rules, 1969

**Appeal No. :** C.R.P. Nos. 5944 and 5945 of 1990

**Appellant :** Sanjeevamma

**Respondent :** Annyappa

**Advocate for Def. :** D.L.N. Rao, Adv.

**Advocate for Pet/Ap. :** Murthy & Kumar

**Disposition :** Petition allowed

**Judgement :**

ORDER

43 RULE 1(r) - Appellate Court: Interference with orders of trial Court: where material & findings arrived at contrary to pleadings or misdirection or non-consideration thereof & where orders arbitrary, perverse or capricious.

No doubt Appellate Court can interfere with the orders of the trial Court provided it is shown that the material made available by either of the parties to the proceedings and the findings arrived at are contrary to the pleadings of the parties or their complete misdirection or non-considering any of the material. But at the same time a restraint has been put on the Appellate Court to interfere in the discretionary order passed by the trial Court saying that it is quite unjust, unsafe and improper on the part of the Appellate Court to interfere in the orders passed by the trial Courts unless it is shown orders passed by the trial Court are in any way arbitrary, perverse or capricious, still the Appellate Court shall put a brake in exercise of its power of holding that merely because it is possible for the Appellate Court, on the material made available to form an opinion over the one formed by the trial Court, is not sufficient.

(B) KARNATAKA MINOR MINERAL CONCESSION RULES, 1969 - No provision authorising lessee to sub-lease - Possession of sub-lessee not lawful.

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