

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22nd DAY OF JANUARY 2001

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

CIVIL REVISION PETITION NO: 2903 OF 2000

BETWEEN :

1 DATHATRAYA
S/O PANI NAGAPPA
AGE:24 YRS
R/O HIRESHAKUNA VILLAGE
SORAB TALUK
SHIMOGA

2 KANTHARAJ
S/O PANI NAGAPPA
AGE:22 YRS
R/O HIRESHAKUNA VILLAGE
SORAB TALUK
SHIMOGA

...PETITIONERS

(BY SRI MOHAN SHANTANAGOUDAR, ADVOCATE)

AND :

1 PANI PUTTAMMA
ALLEGED TO BE W/O PANI RUDRAPPA
AGE:80 YRS
P/O OTUR VILLAGE
KASABA HOBLI, SORAB TALUK
SHIMOGA

2 PUTTAMMA
W/O BASAPPA
AGE:60 YRS
R/O OTUR VILLAGE
KASABA HOBLI, SORAB TALUK
SHIMOGA

- 3 LAKSHMAMMA
 W/O SHIVAPPA
 OTUR VILLAGE
 KASABA HOBLI
 SORAB TALUK
 SHIMOGA
- 4 BASAMMA @ RENUKAMMA
 W/O HUTCHAPPA
 R/O KUPPAGADDE VILLAGE
 SORAB TALUK
 SHIMOGA

...RESPONDENTS

(BY SRI JAYAKUMAR S PATIL FOR C/R1)

CRP IS FILED U/S 115 CPC AGAINST THE ORDER DATED 12.7.2000 PASSED ON IA NO.5 IN FDP NO.1/98 ON THE FILE OF THE CIVIL JUDGE(JR.DIVN) & JMFC., SORAB, DISMISSING IA NO.5 FILED U/S 10 OF CPC.

THIS C.R.P. COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING

O R D E R

I heard the respective counsel. The suit for partition was filed by the respondents. The suit was decreed and an appeal and second appeal were preferred. Thereafter an application was filed under Section 54 CPC for passing of a final decree. The plaintiff filed second suit claiming that the property belongs to him exclusively on the basis the Will sued for permanent injunction. The earlier suit which was decreed was filed by the

respondents for partition and separate possession in respect of the very same properties. Thereafter an application under section 10 was made before the Execution Court for seeking stay of the execution. That application was rejected. Aggrieved the revision.

2. I have heard the respective sides in the matter. It is not a case for stay as prayed for. If the will existed, it could have been set up in the earlier suit itself and as such it is doubtful of the existence of the suit. Besides, the execution relates to a concluded matter. That need not be stayed in anticipation of an unlikely decree. I do not think any grounds are made out at this stage to stay the execution. C.R.P is dismissed.

Sd/- JUDGE

AI/-