

IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT GULBARGA  
DATED THIS THE 23<sup>RD</sup> DAY OF JULY 2010

BEFORE

THE HON'BLE MR. JUSTICE A.N. VENUGOPALA GOWDA

MSA NO.133 OF 2003  
A/W  
MISC.CVL.NOS.12071 AND 12073/2009

C/W

MSA NO.132 OF 2003  
A/W  
MISC.CVL.NOS.12235/09 AND 12236/2009

MSA No.133/2003  
A/W  
MISC.CVL.NOS.12071 AND 12073/2009

BETWEEN

The Town Municipal  
Council Yadgir  
By its Commissioner  
Yadgir Taluk  
Gulbarga District.

. . . Appellant

(By Sri Sangamesh G.Patil, Adv-Absent)

AND:

The State Bank of Hyderabad  
Branch Yadgir

By its Power of Attorney Holder  
Branch Manager  
Ramesh Pukale  
Yadgir Taluk  
Gulbarga District.

. . . Respondent

(By Sri Ashok S.Kinagi, Adv)

This MSA is filed under Section 104 R/W O 43 R1(u) of CPC against the judgment and decree dated 7.4.03 passed in R.A.No.16/01 on the file of the Civil Judge (Sr.Dn.), Yadgir, allowing the appeal and setting aside the judgment and decree dt.25.01.01 passed in O.S.No.39/99 on the file of the Civil Judge (Jr.Dn.), Yadgir.

MSA NO.132/2003

A/W

MISC.CVL.NOS.12235/09 AND 12236/2009

BETWEEN

The Town Municipal  
Council Yadgir  
By its Commissioner  
Yadgir Taluk  
Gulbarga District.

. . . Appellant

(By Sri Sangamesh G.Patil, Adv-Absent)

AND:

The State Bank of Hyderabad  
Branch Yadgir  
By its Power of Attorney Holder  
Branch Manager  
Ramesh Pukale  
Yadgir Taluk  
Gulbarga District.

. . . Respondent

(By Sri Ashok S.Kinagi, Adv)

This MSA is filed under Section 104 R/W O 43 R1(u) of CPC against the judgment and decree dated 7.4.03 passed in R.A.No.15/01 on the file of the Civil Judge (Sr.Dn.), Yadgir, allowing the appeal and setting aside the judgment and decree dt.25.01.01 passed in O.S.No.47/1998 on the file of the Civil Judge (Jr.Dn.) and Addl. JMFC, Yadgir.

These appeals coming on for orders this day, the Court delivered the following:

### **J U D G M E N T**

With the consent of the learned Counsel on both sides, the appeal is heard for final disposal.

2. The parties herein filed suits against each other in O.S.Nos.47/98 and 39/99 in the Court of Civil Judge (Jr.Dn.), Yadgir. Both the suits were dismissed by the judgment/decreed dated 25.01.2001. The plaintiff in O.S.No.47/1998 that is the present respondent had challenged the said decrees in R.A.Nos.15/2001 and 16/2001 in the Court of Civil Judge (Sr.Dn.) at Yadgir.

3. During the pendency of the appeals, certain applications had been filed. Considering the applications and the appeals, the Appellate Court allowed the appeals and remanded the suit to the Trial Court by permitting the



amendment of plaint and filing of additional written statement and for disposal in accordance with law. The said remand orders were questioned in these appeals.

4. These two appeals were disposed of, against which, the respondent preferred Civil Appeal No.5294/2006 before the Hon'ble Apex Court. The said appeal was allowed by a judgment dated 01.12.2006 and there is an order of remand for consideration of the appeals in accordance with law.

5. Sri Ashok S.Kinagi learned Advocate appearing for the respondent would submit that, pursuant to the order of remand made by the Hon'ble Apex Court, the Trial Court took up O.S.Nos.155/03 and 156/03 for consideration and the said suits were disposed of by a common judgment dated 22.03.2010. The suit filed by the Bank has been decreed and the suit filed by the present appellant-Town Municipal Council has been dismissed. Learned Counsel also submits that the present appellant has questioned the said decrees in RFA No.5018/10 and the matter is pending. Learned

  
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Counsel submits that in view of the subsequent events that have been taken place, these appeals have become infructuous.

6. There is no appearance for the appellant. The submission made by Sri Ashok S.Kinagi, learned Counsel, is supported by the records. Since the Trial Court has disposed of the suits and the appellant has questioned the judgment and decree in RFA No.5018/2010, these appeals have become infructuous and shall stand closed accordingly.

The contentions of the appellant are kept open for consideration in RFA No.5018/2010. In view of the disposal of the main appeals, Misc.Cvl. applications do not survive for consideration.

Ordered accordingly.

**Sd/-  
JUDGE**

JT/-