

THE HON'BLE SMT. JUSTICE ANIS

APPEAL SUIT No. 153 OF 2017

JUDGMENT:

Heard learned counsel for the appellant and the respondents.

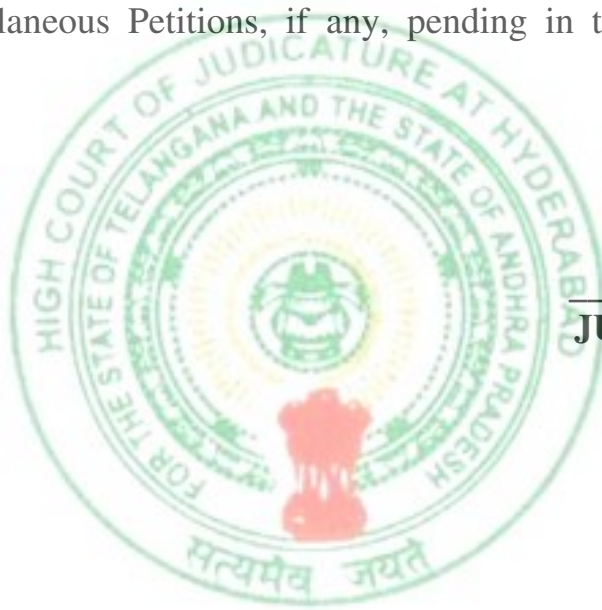
This Appeal Suit assails the judgment and decree dated 30.06.2008 passed in OS No. 140 of 2005 by the learned Principal Senior Civil Judge, Ananthapur, whereby the suit filed by first respondent herein for partition and separate possession of her 1/6th share in the suit schedule properties, was decreed exparte.

A perusal of the record shows that the plaintiff/first respondent herein filed the suit for partition of suit schedule properties, being the ancestral properties of the plaintiff and defendants, and for separate possession of her 1/6th share. The defendants were set exparte in that suit and a preliminary decree came to be passed on 30.06.2008 declaring the plaintiff to be entitled to 1/6th share in the plaint schedule properties.

Aggrieved thereby, the defendant No.2 in the suit preferred the present Appeal Suit *inter alia* contending that he has a good case in appeal inasmuch partition had already taken place long back in respect of the joint family properties and that first respondent/plaintiff got separated from her family by taking her share and finally prayed the court to remand the matter back to the trial court for trial afresh.

Learned counsel for the respondents reported no objection for remanding the matter.

As both the parties have agreed for remand of the suit, without delving on merits, the appeal is allowed setting aside the judgment and decree impugned herein and the matter is remanded to the court below with a direction to dispose of the suit as early as possible after providing opportunity to both the parties to let in their evidence, both oral and documentary, after appearance of the parties. No order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.



JUSTICE ANIS

24th July, 2017
MAS

THE HON'BLE SMT. JUSTICE ANIS



APPEAL SUIT No. 153 OF 2017

Dated: 24th July, 2017

MAS