

RJ No. 102/2023

High Court of Karnataka,
Bengaluru,
Dated: 14.08.2023

CIRCULAR

The Hon'ble Court while disposing of case in **M.J.Thimme Gowda Vs. Smt. Huchamma and others**, MSA No.10/2012 (RO) vide order dated 06.04.2023 has deprecated the casual approach of the Appellate Courts in remanding the cases to the Trial Court and has observed as follows:

“17. Before parting, it is necessary to note that in some cases, the Appellate Courts have casually remanded the matter back to the Trial Court by setting aside the Judgment of the Trial Court, unmindful of the fact that the Trial court would have spent enormous time and energy in disposing off a case. Unless, the appellants before the Appellate Court make out a case that they were not provided with adequate opportunity to defend the suit before the Trial Court and / or that there was any inherent inconsistency in the exercise of jurisdiction by the Trial Court which went to the root of the matter, the Appellate Court should not set aside the judgment of the Trial Court. On the contrary, the Appellate Court should try to iron out the creases by framing necessary issues and direct the Trial Court to take additional evidence if necessary and thereafter, dispose off the appeal in accordance with law. The Appellate Court should refrain from unnecessarily remanding the case unless a case is made out under Order XLI Rule 23 or under Order XLI Rule 23A or under Order XXV of CPC.

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*The Registry is directed to issue appropriate circulars to the Appellate Courts in this regard and also to comply with the Judgment of a coordinate Bench of this Court in the case of **Shanthaveerappa vs K.N.Janardhanachari** (ILR 2007 KAR 1127)".*

Hence, as directed, all the Appellate Courts in the State shall refrain from unnecessarily remanding the cases to the Trial Courts unless the appellants make out a case that they were not provided with adequate opportunity to defend the suit before the Trial Courts and / or that there was any inherent inconsistency in the exercise of jurisdiction by the Trial Court which went to the root of the matter or a case is made out under Order XLI Rule 23 or under Order XLI Rule 23A or under Order XXV of the Code of Civil Procedure 1908 and shall scrupulously comply the directions given in this regard in the case of Shantaveerappa vs K.N.Janardhanachari reported in ILR 2007 KAR 1127.

BY ORDER OF HON'BLE THE CHIEF JUSTICE

Sd/-
REGISTRAR (JUDICIAL)

To:

1. The Registrar General/ Registrar (Vigilance)/ Registrar (Recruitment) / Registrar (Administration)/ Registrar (Infra & Maintenance) / Registrar (Protocol & Hospitality) / Registrar (Computers).

2. The Additional Registrar General/ Additional Registrar (Judicial), High Court of Karnataka at Dharwad and Kalaburagi Benches, for necessary action and circulation among the concerned staff.
3. The Director, Karnataka Judicial Academy, Bengaluru.
4. The Central Project Co-ordinator (CPC), with a request to web-host the circular.
5. The Joint Registrar, Assistant Registrar and Section Officer of DJA-I to circulate to all the Appellate Courts in the State.
6. The Joint Registrars/Deputy Registrars, Assistant Registrars and Section Officers of Scrutiny and Pending Branches.
7. Office Copy.