

State of Kerala

Vs

E. K. Kuriyipe and Others

Civil Appeal No. 1308 of 1979

(N. L. Untwalia, O. Chinnappa Reddy JJ)

18.01.1980

JUDGMENT

UNTWALIA, J. –

Heard learned counsel for the parties. In our opinion, technically speaking the High Court had no jurisdiction to interfere with the Order of the trial Court directing the issuance of a Commission for doing certain things in a claim case. But having appreciated the other facts and circumstances of the case and specially the judgment of the High Court in O.P.No. 2003 of 1973 which judgment was given in the year 1976, and after having appreciated the observations of the High Court in the judgment under appeal we have come to the conclusion that the matter requires reconsideration at the hands of the trial court. We, therefore, allow the appeal, set aside the Order of the High Court as also of the trial court and send the matter back to the latter court for a reconsideration of the question as to whether a Commission should be issued in this case or not if so for what purpose. The trial court is directed to do so keeping in view the judgment aforesaid of the High Court. No order as to costs.

</html