

Tharayil Sarada and Another

Vs

Govindan and Another

Civil Appeal No. 987 of 1981

(A.C. Gupta, O. Chinnappa Reddy JJ)

16.03.1981

JUDGMENT

In this case, the High Court in second appeal allowed the plaintiff to amend the plain to include a prayer for partition of the disputed property and straightway passed a preliminary decree declaring plaintiff's 1/4th before us, it is contended, and in our opinion rightly, that the High Court before making the decree should have given an opportunity to the defendant to file an additional written statement. Accordingly, we set aside the impugned judgment and the decree and send the case back to the High Court to dispose of the appeal in accordance with law, after giving the defendant an opportunity to file an additional written statement. We express no opinion on the correctness or otherwise of the findings recorded by the High Court on other points. There will be no order as to costs.

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