

Popular Plantation and another

Vs

State of Kerala and others

Civil Appeal No. 200 of 1991 (arising out of S.L.P. (C) No. 5789 of 1990)

(M. H. Kania, J. S. Verma, V. Ramaswami - II JJ)

11.01.1991

JUDGMENT:-

1.Special leave granted. Counsel heard.

2. In our opinion, before dismissing the petition on the ground that the appellant had an adequate alternative remedy by way of an application to the Tribunal under S. 6 of the Kerala Private Forests (Vesting and Assignment) Act, 1971, the High Court ought to have decided the question whether the Tribunal had the jurisdiction to decide the question whether the notification dated July 22, 1987, was liable to be struck down on any of the grounds set out in the writ petition. In view of this, the impugned order is set aside and the appellants are given liberty to file an application to the Tribunal within one month from today or to proceed with the application they have already filed before the Tribunal. The appellants agreed to confine the application which he has already made to the Tribunal to challenging the validity of the said notification on the grounds set out in the writ petition filed in the High Court. In the event of the Tribunal coming to the conclusion that it has no jurisdiction to entertain the dispute, the appellants will be at liberty to file an appeal and/or a writ petition to the High Court to challenge the said notification but only on the said grounds. The interim orders passed by the High Court shall continue to operate till the Tribunal decides the application of the appellants and for a period of two weeks thereafter ; thereafter it will be for the High Court to pass such orders as it may think fit. The Tribunal to dispose of the aforesaid application within a period of six months from receiving this order. The Registry to transmit a copy of this order as early as possible. In order to challenge the said notification and limit the grounds of challenge as aforesaid the appellants will be, at liberty to amend the application which he has made to the Tribunal. The condition imposed by the High Court on the appellants in its orders dated 13th February, 1989, and 29th September, 1989, respectively shall continue to operate. The appeal is disposed as afore-stated. No order as to costs.

3. Writ petition to come up in normal course. Stay order to stand vacated in view of the order which we have made in the special leave petition.

Order accordingly.

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