

Koodalmanickam In Devaswom Managing Committee

Vs

Thachudaya Kaimal Alias Manickan Keralan (Dead) By Lrs.

Civil Appeal No. 1057 of 1978

Civil Appeal No. 3450 of 1996

(K. Ramaswamy, B. L. Hansaria JJ)

07.02.1996

ORDER

1. This appeal by special leave arises from the order dated 31-3-1978 of the learned Single Judge of the Kerala High Court in Second Appeal No. 1006 of 1976. The sole respondent instituted a suit against the appellant contending that the properties were a part of the residential premises given to him in personam for his personal benefit under a decree of the British resident for the State of Travancore and Cochin. Consequentially, he is entitled to enjoy the income or the usufruct during his tenure. The trial court and the appellate court dismissed the suit, but in second appeal the learned Single Judge allowed the appeal and held that he is entitled to the enjoyment of the income or usufruct. Pending appeal, the respondent died. We are informed that appellant-committee has taken over the property. Right to enjoy the property even assuming that the order is correct, is a right only in personam and on demise the right ceases to exist. Consequently, nothing survives in this case for decision.
2. The appeal is accordingly disposed of. No costs.