

K. Jayadevan Nair

Vs

Krishna Pillai (Dead) and Others

Civil Appeal No. 6731 of 1996

(K. Ramaswamy, G. B. Patianaik JJ)

22.03.1996

ORDER

1. We have heard the counsel on both sides. Leave granted.
2. This appeal by special leave arises from the judgment and decree of the High Court of Madras in AS No. 212 of 1983. It has a chequered history. By order dated 27-7-1992 in K. Jeyadevan Nair v. Krishna Pillai (CA No. 2718 of 1992) this Court remitted the matter to the High Court to consider whether there was any family arrangement. The High Court has held that there is no family arrangement. Therefore, the appellant is not entitled to the partition of the property and allotment of his share in terms thereof. Thus this appeal by special leave.
3. The only question raised by Mr S. Sivasubramaniam, the learned Senior Counsel for the appellant is : whether among the members of the family, there was the arrangement under which the appellant was put in possession of the entire property and he has been in possession right from 1977 under the family arrangement ? The case of the respondent is that the father had (sic acquired) the property at a partition with his brothers and the property, therefore, is self-acquired property. Equally the case of the fifth respondent is that his mother also conveyed her own interest. Therefore, it is not partible. It would be obvious that the respondents have had some arrangement; otherwise the appellant would not have had the possession of the property and management thereof. Under these circumstances, we feel that the interests of justice would be met by directing the appellant to retain 1/3rd of the property and surrender the remaining 2/3rd property to the contesting respondents who are the subsequent purchasers from the other family members. The appellant should also return 1/3rd consideration paid by the respondents to the other members in the respective sale deeds. He is further directed to demarcate and deliver 2/3rd property within two months from today.
4. The appeal is accordingly allowed and the appellant is directed to deliver possession of the property to the respondents without any further order of the Court. No costs.