

William George Haggins

Vs

State of Kerala and Another

Civil Appeal No. 696 of 1987

(CJI M. M. Punchhi, G. T. Nanavati, K. T. Thomas JJ)

06.05.1998

ORDER

1. This is an appeal by a person, who claimed the right of a hutmentdweller ("kudikidappukaran") as per the provisions of the Kerala Land Reforms Act, 1964. The appellant made an application to purchase the right, title and interest of the landowner over the landed area which is appurtenant to the building which was in occupation of him. The landowner resisted the application mainly on the premise that this building is part of another building and as between them there is only one common wall. Though the Land Tribunal allowed the application of the appellant, he was non-suited by the Land Reforms Appellate Tribunal and the High Court in revision did not interfere.
2. The question whether the building in respect of which the claim is made is a separate entity from the adjoining is a question of fact. Shri E. M. S. Anam, learned counsel for the appellant, contended that the application made by the occupant of the other part of the building for purchase of the right, title and interest of the landowner was granted and a certificate of purchase was also issued. This fact he tried to project from the report of the Revenue Inspector. If that is a fact, then it cannot possibly be contended that the building in respect of which the present appellant claims right of "kudikidappukaran" is part of the other building.
3. It appears to us that the Land Reforms Appellate Tribunal has not adverted to the said aspect of the matter when it concluded that the claim was made in respect of a building which is only a part of the main structure. We think that the Land Reforms Appellate shall arrive at a decision afresh on that crucial factual position.
4. We, therefore, upset the impugned of the High Court as well as the judgment of the Appellate Tribunal and remand the case back to the Appellate Tribunal for disposal of the afresh in the light of the observations made above.