

## **SUPREME COURT OF INDIA**

Easo Yohannan (D) by Lrs.

Vs.

Bahelamma Koshy

(K.T.Thomas, D.P.Wadhwa and S.S.M.Quadri JJ.)

21.01.1999

### **ORDER**

The Text below is only a summarized version of the order pronounced

The High Court had interfered with the concurrent findings of the courts on the grounds that the lease was originally granted by Annamma who was the widow of the original owner, who had only a limited interest and hence such a lease was exempted from the provisions relating to fixity of tenure and so the heirs of the original owners are entitled to a decree for recovery of possession. It was also found that the respondent had also joined her as a lessor and it had to be examined whether the respondent was a co-owner of the property who was entitled to lease the land. The High Court had not examined when it found that Annamma, was only a limited owner, as to whether the lease created in favour of the appellant by the said Annamma in conjunction with the respondent would attract the beneficial provisions in Section 13 and 72 of the Kerela Land Reforms Act, 1963. It is not possible to give a decree for recovery of possession of the suit property without considering these aspects. The impugned judgment of the High Court is set aside and the second appeal is remitted back to the High Court