

SUPREME COURT OF INDIA AIR 2000 3522(1)

Kannian

Vs.

Sethurama

C.A.No.943 of 1989

(B. N. Kirpal and M. B. Shah, JJ.)

09.02.2000

ORDER

1. After hearing the learned counsel for the appellants, we are not inclined to upset the judgment of the High Court. The trial Court had come to the conclusion that the Will propounded by the appellants had not been proved. The lower appellate Court reversed that finding and the High Court restored the decision of the trial Court.

2. The Will was an unregistered one. There were stated to be three attesting witnesses - two of them are dead and one was not produced. The trial Court did not rely upon the evidence of the scribe for the purpose of establishing the validity of the Will. The lower appellate Court merely stated, while reversing the decree, that the scribe had been examined to prove the will. How the scribe was examined, what was stated by him and whether that statement amounted to the scribe being regarded as an attesting witness was not held by the lower appellate Court. The High Court on the other hand dealt with the evidence of the scribe and then came to the conclusion that he could not be regarded as an attesting witness.

3. Under the circumstances, the decision of the High Court calls for no interference as we are not satisfied that the Will propounded by the appellants was duly proved. The appeal is dismissed. No costs.

Appeal dismissed.