

SUPREME COURT OF INDIA

S. Saleema Bi

Vs.

S. Pyari Begum

C.A.No.2066

(V. N. Khare and N. Santosh Hegde, JJ.)

13.03.2000

ORDER

1. Leave granted.

2. The appellant herein was defendant in a suit filed by the plaintiff-respondent for partition of the property. In the said suit, the plaintiff-respondent made an application for appointment of a Receiver in respect of the property in dispute. The trial Court rejected the said application. Aggrieved, the plaintiff-respondent preferred an appeal before the High Court. The High Court allowed the appeal appointed a Receiver in respect of the property in dispute. It is against the said order the defendant is in appeal before us.

3. We have heard learned counsel and perused the judgment. We find that the defendant is in physical possession of the property in dispute. The Receiver can only be appointed when it is just and convenient and also when there is a prima facie case in favour of the plaintiff-respondent and the case calls for taking of urgent measure like appointment of a Receiver. The High Court has not gone into these questions while appointing Receiver for the property in dispute. We, therefore, find

that the appointment of the Receiver was not legally justified. We, accordingly, set aside the order of the High Court.

The appeal is allowed. There shall be no order as to costs. However, the hearing of the suit may be expedited.

Appeal allowed.