

SUPREME COURT OF INDIA

K.B. Govind

Vs.

K.G. Nagaraj & Anr.

C.A.No.1724 of 2008

(Ashok Bhan Dalveer Bhandari, JJ.)

03.03.2008

ORDER

1. Leave granted.

2. This appeal has been filed against an interim order. Respondent, who is the son of the appellant, filed a suit for partition and separate possession of the property in question claiming the same to be ancestral. The trial court dismissed the suit holding that the property was not ancestral. Against the order of the trial court, the respondent filed an appeal in the High Court which has been admitted by the High Court. During the pendency of the appeal, the respondent filed an application to provide residential accommodation to him in the suit premises preferably on the ground floor.

“By the impugned order, the High Court has directed the appellant to provide accommodation to the respondent on the first floor portion of the suit premises. The High Court has granted a relief which could be given to the respondent only if the appeal was accepted and the suit was decreed in his favour. Considering the ill health of the appellant and other hardships being faced by him, we are of the opinion that the High Court was not justified in granting the said relief to the respondent pending disposal of the appeal before it. Accordingly, we set aside the impugned order of the High Court and allow the appeal. The High Court will now proceed to hear the pending appeal in accordance with law without being influenced by any of the observations made hereinabove.”