

SUPREME COURT OF INDIA

Manoj Menon

Vs.

E.K.Abdul Hammed

C.A.No.50 of 2009

(S.B. Sinha and V.S. Sirpurkar JJ.)

05.01.2009

ORDER

1. Leave granted.

2. Having heard the learned counsel for the parties, although we agree that the impugned judgment passed by the High Court suffers from no legal infirmity, but in the peculiar facts and circumstances of this case and, particularly, we having been taken through the entire records by the learned counsel for the parties, are of the opinion that the appellant may be given an opportunity before the High Court to argue the matter on merit of the appeal.

3. We make it clear that we have passed this order keeping in view the peculiar facts and circumstances of this case and, in particular, the relationship between the appellant, on the one hand, and the defendant No.2 and defendant No.3, on the other. We further make it clear that we are passing this order in exercise of our discretionary jurisdiction under Article 142 of the Constitution of India with a view to do complete justice to the parties.

4. As a sum of Rs. 50 thousands has been deposited by the appellant in terms of the order passed by this Court on 3.4.2006, which amount, admittedly, has been withdrawn by the plaintiff-respondent No. 1, we are of the opinion that the said amount may be treated to be the costs payable by the appellant for the purpose condonation of delay.

5. The appellant, however, shall pay a further sum of Rs. 25 thousands to the plaintiff-respondent No.1 by way of costs of this appeal.

6. We would request the High Court to consider the desirability of disposing of the appeal as expeditiously as possible and preferably within a period of six weeks from the date of receipt of a copy of this order.

7. The appeal is disposed of with the aforementioned observation and direction.