

Usha vs Kuttappan

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Court : Kerala Orders

Decided On : Aug-04-2023

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : CRP/55/2014

Appellant : USHA

Respondent : Kuttappan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
FRIDAY, THE 4TH DAY OF AUGUST 2023 / 13TH SRAVANA, 1945
AGAINST THE ORDER/JUDGMENTOS 283/2011 OF PRINCIPAL SUB
COURT,IRINJALAKUDA PETITIONER IN CRP - DEFENDANT NO.1 IN
SUIT: USHA, D/O.LATE ARAKKAMADATHIL GOPALAN, AGED 43,
MUKUNDAPURAM TALUK, PIN- 680 317, AND W/O MYLIPPILLIYIL
BABU, KURALI PO, PALA, KOTTAYAM DISTRICT. BY
ADVS.SRI.P.B.KRISHNAN SRI.N.AJITH SRI.P.M.NEELAKANDAN
SRI.SABU GEORGE SRI.P.B.SUBRAMANYAN RESPONDENTS IN
C.R.P-PLAINTIFFS AND DEFENDANTS 2 TO 8 AND ADDL.
DEFENDANTS 9 TO 12 IN SUIT:

1 KUTTAPPAN, S/O.LATE ARAKKAMADATHIL KUNJAN, AGED 88 2
JANAKI, D/O.LATE ARAKKAMADATHIL KUNJAN, AGED 86, 3
KALYANI,D/O.LATE ARAKKAMADATHIL KUNJAN, AGED 84,
MUKUNDAPURAM TALUK, PIN- 680 317 AND W/O
VATTAPPUZHAKKAVIL KUTTAPPAN. 4 PARAMESWARAN, S/O.LATE
ARAKKAMADATHIL KUNJAN, AGED 80, MUKUNDAPURAM TALUK,
PIN- 680 317, RESIDING AT KANJIRACODE DESOM,
VADAKKANHERI, PIN: 680 590. 5 AMMUKUTTY, D/O.LATE
ARAKKAMADATHIL KUNJAN, AGED 77, AND W/O.KARIPPERI
KUDIYIL THANKAPPAN. 6 DEVAKI, D/O.LATE ARAKKAMADATHIL
KUNJAN, AGED 67, AND W/O.VENDANAPPANATH SREEDHARAN. 7
RAMAKRISHNAN, S/O.LATE ARAKKAMADATHIL KUNJAN, AGED
62,VATTAKKOTTAYI DESOM, PUTTITHADI P.O., KALLUR VILLAGE,
MUKUNDAPURAM TALUK, PIN- 680 317. 8 PONNAMMA, W/O.LATE
ARAKKAMADATHIL GOPALAN, AGED 71, VATTAKKOTTAYI DESOM,
PUTTITHADI P.O.,

9 PUSHPA, W/O.LATE ARAKKAMADATHIL SATHYAN,AGED 44 10
NEENU, AGED 24 YEARS, D/O.LATE ARAKKAMADATHIL SATHYAN,
11 NANDU, S/O.LATE ARAKKAMADATHIL SATHYAN, LATE A MINOR
NOW A MAJOR,AGED 18, VATTAKKOTTAYI DESOM, PUTTITHADI 12
JAYALALITHA, W/O.LATE ARAKKAMADATHIL GOPI, 13 ANJU,
D/O.LATE ARAKKAMADATHIL GOPI,LATE A MINOR, NOW A MAJOR,
AGED 19, VATTAKKOTTAYI DESOM, PUTTITHADI P.O., 14 ANU,
D/O.LATE ARAKKAMADATHIL GOPI, MINOR AGED 15,
MUKUNDAPURAM TALUK, PIN: 680 317., REPRESENTED BY
GUARDIAN AND NEXT FRIEND MOTHER JAYALALITHA, W/O.LATE
ARAKKAMADATHIL GOPI VATTAKKOTTAYI DESOM, PUTTITHADI 15
SUBHADRA, W/O.LATE ARAKKAMADATHIL RAMAKRISHNAN, 16
SANAL KUMAR, S/O.LATE ARAKKAMADATHIL RAMAKRISHNAN, 17
SUNIL KUMAR, S/O.LATE ARAKKAMADATHIL RAMAKRISHNAN, 18
SUBHA BABU, D/O.LATE ARAKKAMADATHIL RAMAKRISHNAN, BY
ADVS.SRI.P.K.SAJEEV SRI.C.A.CHACKO THIS CIVIL REVISION

PETITION HAVING COME UP FOR ADMISSION ON

04.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

In a suit for partition, the first defendant, who had obtained a pattayam over the property, the subject of the suit, came up with a contention that the suit is not maintainable in view of the express bar under Section 6 of the Kerala Land Assignment Act, 1960. Hence, it is submitted that the express bar under Section 6 of the Act would come into play as far as the present suit, which was filed for partitioning the property which is the subject of the abovesaid pattayam. The trial court found that the suit is perfectly maintainable and bar under Section 6 will not operate, presumably on the ground that, according to the plaintiff, originally the said property was possessed and enjoyed by the predecessor in interest, one Kunjan. If it is proved, the pattayam granted would enure to the benefit of all the legal heirs, even though it was obtained by one among the legal heirs of the deceased Kunjan, and the suit would stand perfectly maintainable. Hence, it is a mixed question of fact and law and deserves adjudication at the final stage. This might be the reason why the trial court has rejected the application. There is no ground for exercising the revisional power. It is made clear that this revision is pending here right from the year 2014. Hence, there shall be an earnest effort from the part of the trial court to dispose of the matter by giving notice to both parties in the absence of any of the parties before the trial court. The Revision Petition will stand dismissed accordingly. Sd/- P.SOMARAJAN JUDGE msp

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