

Joe Philip, vs Kishore,

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Court : Kerala

Decided On : Nov-30-2021

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : RP/63/2020

Appellant : Joe Philip,

Respondent : Kishore,

Judgement :

RP NO. 63 OF 2020 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH
AGRAHAYANA, 1943 RP NO. 63 OF 2020 AGAINST THE
ORDER/JUDGMENT IN RSA 1141/2004 OF HIGH COURT OF KERALA
REVIEW PETITIONER/RESPONDENT/RESPONDENT/DEFENDANT:
JOE PHILIP, AGED 55 YEARS, S/O.PHILIPKUTTY, PANDALATHU
KARIYILAYA, PUKASHASSERIL, VARANAMMURI,
THANNERMUKKAM NORTH VILLAGE, ALAPPUZHA-688555. BY
ADVS. K.S.HARIHARAPUTHRAN SMT.BHANU THILAK
RESPONDENT/2ND APPELLANT/APPELLANT/4TH PLAINTIFF:

KISHORE, AGED 46 YEARS, S/O.JAYAPRASAD, MATTATHIL HOUSE, CMC WARD NO.21, CHERTHALA, ALAPPUZHA-688524. THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 30.11.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: RP NO. 63 OF 2020 2

ORDER

The review petition is by the respondent on the allegation that there is an apparent error on the face of the judgment of this court by which this court passed a preliminary decree for partition based on the finding that Ext.A5 compromise entered into in O.S.No.146/1992 and the division of 1/4 th share thereof to the predecessor-in-interest of the 3 rd and 4th plaintiffs and subsequent purchase by the 3rd plaintiff and then the 4th plaintiff are valid and binding. The review petition is filed on the ground that Ext.A5 compromise requires registration and that question was not taken into consideration. In fact, no such contention was raised before this court at the time of disposal of the suit. Even otherwise, in view of the legal position settled in Phool Patti and Another v. Ram Singh (dead) through legal representatives and another [(2015) 3 SCC 164], the said contention cannot be sustained. When the compromise is within the four corners of the suit and confined only to the subject matter of the suit, unless there is a new right, title or interest was incorporated for the first time by way of compromise, no registration is required so as to accept the compromise and to pass a decree thereof. Hence review fails, dismissed. Sd/- P.SOMARAJAN JUDGE

msp

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