

KOODALMANICKAM IN DEVASWOM MANAGING COMMITTEE A

v.

THACHUDAYA KAIMAL @ MANICKAN KERALAN
(DEAD) BY LRS.

FEBRUARY 7, 1996

B

K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Right in personam—Enjoyment of Income or usufruct—Person dying pending appeal—Held : It is only a right in personam and on demise the right ceases to exist.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1057 of 1978.

From the Judgment and Order dated 30.3.78 of the Kerala High Court in S.A. No. 1006 of 1976.

T.L. Vishwanatha Iyer and V.B. Saharya for the Appellant.

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A.S. Nambiar, Shantha Vasudevan and P.K. Manohar for the Respondent.

The following Order of the Court was delivered :

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This appeal by special arises from the order dated March 31, 1978 of the learned single Judge of the Kerala High Court in Second Appeal No. 1006/1976. The sole respondent instituted a suit against the appellant contending that the properties were a part of the residential premises given to him in person in for his personal benefit under a decree of the British Resident for the State of Travancore and Cochin. Consequentially, he is entitled to enjoy the income or the usufruct during his tenure. The trial Court and the appellate Court dismissed the suit; but in Second Appeal the learned single Judge allowed the appeal and held that he is entitled to the enjoyment of the income or usufruct. Pending appeal, the respondent died. We are informed that appellant-committee has taken over the property. Right to enjoy the property even assuming that the order is correct, is a right only in personam and on demise the right cease to exist. Consequently, nothing survives in this case for decision.

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The appeal is accordingly disposed of. No costs.

G.N.

Appeal disposed of.