

K. JAYADEVAN NAIR

v.

KRISHNA PILLAI (DEAD) AND ORS.

MARCH 22, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Hindu Law :*

*Hindu undivided family—Appellant, one of the members of the family in possession of certain properties on the basis of alleged family arrangement—Claim for partition and allotment of share in terms of the arrangement—Other members disputing the family arrangement and claiming the property as self-acquired by their father—Held, there appears to have been some arrangement—Appellant to retain 1/3rd of the property and surrender the remaining 2/3rd property to the contesting respondents who are the subsequent purchasers from the other family members.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6733 of 1996.

From the Judgment and Order dated 23.8.83 of the Madras High Court in A.S. No. 212 of 1983.

S. Sivasubramaniam and R.A. Perumal for the Appellants.

Ms. Malini Poduval for the Respondents.

The following Order of the Court was delivered :

We have heard the counsel on both sides. Leave granted.

This appeal by special leave arises from the judgment and decree of the High Court of Madras in A.S. No. 212/83. It has a chequered history. By order dated July 27, 1992 in C.A. No. 2718/92 this Court remitted the matter to the High Court to consider whether there was any family arrangement. The High Court has held that there is no family arrangement. Therefore, the appellant is not entitled to the partition of the property and allotment of his share in terms thereof. Thus this appeal by special leave.

The only question raised by Mr. S. Sivasubramaniam, learned senior

counsel for the appellant is : whether among the members of the family, there was the arrangement under which the appellant was put in possession of the entire property and he has been in possession right from 1977 under the family arrangement ? The case of the respondents is that the father had the property at a partition with his brothers and the property, therefore, is self- acquired property. Equally the case of the 5th respondent is that his mother also conveyed her own interest. Therefore, it is not partible. It would be obvious that the respondents have had some arrangement; otherwise the appellant would not have had the possession of the property and management thereof. Under these circumstances, we feel that the interests of justice would be met by directing the appellant to retain 1/3rd of the property and surrender the remaining 2/3rd property to the contesting respondents who are the subsequent purchasers from the other family members. The appellant should also return 1/3rd consideration paid by the respondents to the other members in the respective sale deeds. He is further directed to demarcate and deliver 2/3rd property within two months from today.

The appeal is accordingly allowed and the appellant is directed to deliver possession of the property to the respondents without any further order of Court. No costs.

Appeal allowed.