

ITEM NO.4 Court 6 (Video Conferencing) SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1019/2020

(Arising out of impugned final judgment and order dated 21-08-2019
in AS No. 77/2003 passed by the High Court Of Kerala At Ernakulam)

JOHN PAILEE @ SUNNY Petitioner(s)

VERSUS

KURIAKOSE Respondent(s)

Date : 29-07-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. V. Chitambaresh, Sr. Adv.
Mr. Renjith B. Marar, Adv.
Ms. Lakshmi N. Kaimal, AOR
Mr. Biju Vigneswar, Adv.
Ms. Surabhi Santosh, Adv.
Mr. Arun Poomulli, Adv.
Ms. Meera M, Adv.
Mr. Anil Sharma, Adv.

For Respondent(s) Mr. A. Karthik, Adv.
Mr. Sajith. P, AOR

UPON hearing the counsel the Court made the following
O R D E R

The respondent has filed a suit for recovery of possession of suit schedule property against the petitioner herein which was decreed on 27.06.2002. The appeal filed by the petitioner was dismissed by the High Court on 21.08.2019. The petitioner has filed the above

Special Leave Petition challenging the judgment of the High Court.

The dispute in the suit relates to the property which is an extent of 23.100 cents comprised in Survey Nos.185/5 and 187/1 of Thrissur Village. The respondent averred in the plaint that he purchased the property. Thereafter, he executed a power of attorney on 17.08.1990 in favour of the petitioner herein who is his brother in-law. Later, an oral agreement was entered into between the respondent and the petitioner for running a workshop. The respondent further stated in the plaint that the petitioner stopped crediting the profits from the business to his account due to which the power of attorney was cancelled. The respondent who was residing in Dubai, came back and demanded for possession of the property which was not given by the petitioner. Therefore, the respondent filed a suit for recovery of possession.

The petitioner contended before the Trial Court that the respondent has no title or possession over the property in dispute. The building on the suit property was constructed by the petitioner after availing loan from Canara Bank. The Trial Court disbelieved the version of the Petitioner and held that the respondent proved his title to the suit property. The High Court upheld the judgment of the Trial Court by affirming the finding that the respondent herein has title to the

property.

During the pendency of this Special Leave Petition, an attempt was made for settlement of the dispute between the parties by referring them to the Mediation Centre in the High Court of Kerala. The mediation was unsuccessful. When the matter was listed on 16.03.2020, Mr. Chitambaresh, learned senior counsel appearing for the petitioner submitted that the petitioner was willing to accept Rs.1 Crore which was offered by the respondent during the mediation, as full and final settlement. Mr. Karthik, learned counsel appearing for the respondent submitted on instructions that the respondent was in no position to make payment of Rs.1 crore.

During the course of hearing today, Mr. Chitambaresh, learned senior counsel submitted that the matter can be settled as the disagreement during mediation was only regarding the amount payable by the respondent. On instructions, he stated the Petitioner is willing to handover possession if he is paid an amount of Rs. 1 crore.

Mr. Karthik, learned counsel appearing for the respondent, submitted that the respondent shall pay Rs.1 crore subject to the condition that the possession of the property is handed over to him without any further claims by the petitioner.

Considering the fact that the parties are

brothers-in-law and the initial arrangement between them has turned sour with the passage of time, we are of the opinion that the litigation can be put to an end by directing the respondent to pay Rs.1 crore to the petitioner within a period of eight weeks from today. The petitioner shall hand over the possession of the suit schedule property along with machinery within a week thereafter and execute necessary documents to the effect that he shall not have any claim over the property as well as the machinery.

The Special Leave Petition stands disposed of accordingly. Pending application(s), if any, shall also stand disposed of.

(Geeta Ahuja)
Court Master

(Anand Prakash)
Court Master