

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 203 OF 2018
(Arising out of SLP(C) No. 31786 of 2017)

T.K. VARKEY DEAD THR. LRS.

Appellant(s)

VERSUS

THE STATE OF KERALA & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

Vakalatnama filed by Mr. C.K. Sasi, learned counsel , on behalf of State of Kerala and Mr. Anis Ahmed Khan, learned counsel, on behalf of Respondent No.3 is taken on record.

The High Court has remitted the matter to reference court as State could not adduced the evidence, in the facts and circumstances of the Case, the High Curt has taken the judicial notice of certain facts and has passed the order of remand.

Though we are not very much averse to the approach made by the High Court, however, it would have been appropriate, in our opinion, to permit the State to file application for adducing additional evidence and that should have been considered on its own merit.

As prayed by learned counsel appearing for the State, application is permitted to be filed along with relevant documents before the High court and in case the said application is filed, the same shall be considered by the High Court in accordance with law and appropriate orders be passed. It would be appropriate for the High Court to remit the matter, if it consider necessary to obtain report/findings of the reference court, in case recording of evidence is considered necessary.

Accordingly we set aside the order passed by the High Court on 17-08-2017 in LAA No. 2/2017 and request the High Court to consider the matter afresh.

It is further made clear, as prayed, that both the parties may be permitted to adduce evidence, if it considered necessary.

The appeal is allowed. No costs.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI;

JANUARY 12, 2018

ITEM NO.51

COURT NO.10

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). 31786/2017

(Arising out of impugned final judgment and order dated 17-08-2017 in LAA No. 2/2017 passed by the High Court of Kerala At Ernakulam)

T.K. VARKEY DEAD THR. LRS.

Petitioner(s)

VERSUS

THE STATE OF KERALA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.123061/2017-EXEMPTION FROM FILING O.T. and IA No.126332/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.126333/2017-EXEMPTION FROM FILING O.T.)

Date : 12-01-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. V. Giri, Sr. Adv.
Mr. Mohammed Sadique T.a., AOR
Mr. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.

For Respondent(s) Mr. C.K. Sasi, Adv.

Mr. R.K. Kapoor, Adv.
Mr. Rajat Kapoor, Adv.
Ms. Kheyali, Adv.

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

Leave granted.

Impugned order is hereby set aside. The Appeal is allowed in terms of the signed order.

Pending application, if any shall stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)