

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).....CC
129-138/2015

No(s).

(Arising out of impugned final judgment and order dated 14/08/2014 in FA No. 7/2009,14/08/2014 in FA No. 8/2009,14/08/2014 in FA No. 9/2009,14/08/2014 in FA No. 6/2009,14/08/2014 in FA No. 12/2009,14/08/2014 in FA No. 10/2009,14/08/2014 in FA No. 15/2009,14/08/2014 in FA No. 14/2009,14/08/2014 in FA No. 11/2009,14/08/2014 in FA No. 13/2009 passed by the High Court Of Kerala At Ernakulam)

KAVUNNI RAJA & ORS

Petitioner(s)

VERSUS

KOYAKUTTY THANGAL & ORS. ETC.

Respondent(s)

(with appln. (s) for c/delay in filing SLP)

Date : 12/01/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. V.Giri, Sr. Adv.
Mr. K. Rajeev, Adv.

For Respondent(s)

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

Learned counsel for the petitioners relies on the
order passed by the Executing Court dated 9.1.2009 wherein
it has been observed as under:

"All the title deeds pertaining to the
obstructionists were produced. On
consideration of the entire title deeds

Signature Not Verified

Digitally signed by
Suman Wadhwa
Date: 2015.01.13

16:39:35 IST

Reason:

produced before court, it is evident that

the obstructionists were not having any
possession over the property prior to the
passing of the decree. Their intention is
to reopen the entire controversy which was
resolved during the trial of the suit. The

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identity of the contention raised by most of
the claimants with that of the contention
advanced by the judgment debtors during
trial is also a circumstance to come to a
finding that they are none other than the
persons inducted by the defeated judgment

debtors. An investigation or enquiry is necessary when there is materials on record to suggest that the obstructionists have got independent right over the property. None of the claimant could produce any documents to prove their right over the property prior to the passing of the decree. The purchase certificates produced before Court are not binding on the decree holders since the decree holders were not served with individual notice pertaining to the alleged purchase of the jenm right from the Land Tribunal."

Based on the aforesaid decision, the contention of the learned counsel for the petitioners was, that possession ought to have been given to the petitioners by the Executing Court, and that, further proceedings between such of the objectionists who were not in possession on the date of the decree (i.e.31.7.1982) could not have defeated the case of the petitioners before the Executing Court.

Delay condoned.

Issue notice.

Notice be served on the objectionists, through counsel representing the objectionists before the Executing Court. Service on counsel will be treated as service on the objectionists.

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The instant notice is being issued by assuming that the factual position expressed in the extracted portion of the order of the Executing Court, is correct. It is acknowledged, by the learned counsel for the petitioners, that if the same is found to be incorrect, the order passed by the High Court will be deemed to be fully justified.

(SUMAN WADHWA)
AR-cum-PS

(RENUKA SADANA)
COURT MASTER