
(2007) 09 AP CK 0052

In the Andhra Pradesh High Court

Case No : Second Appeal No. 651 of 1998

Geddeam Damayanti and Another

APPELLANT

Vs

Geddamm Akkamma and Others

RESPONDENT

Date of Decision : 26-09-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 7
Evidence Act, 1872 — Section 107, 108, 68
Hindu Succession Act, 1956 — Section 8

Citation : (2008) 1 ALD 20

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : M.N. Narasimha Reddy, for the Appellant; V. Ajay Kumar, for the Respondent

Judgement

P.S. Narayana, J.—On 8.12.1998, this Court made the following order:

In view of the substantial question of law raised in Ground No. 7 of the Memorandum of Grounds, the Second Appeal is admitted.

2. The substantial questions of law raised in (a) and (b) of Ground No. 7 are as hereunder:

(a). Whether the suit filed by the wife for partition of Joint family property alleging her husband died before filing of the suit is entitled to draw the presumption u/s 108 of Evidence Act, though the statutory period is not completed on the date of filing of suit but completed during the course of trial and whether the suit is maintainable basing on presumption only.

(b). In a suit for partition when a court comes to the conclusion that some of the items are not included in the suit schedule whether that suit can be termed as partial partition and not maintainable under law.

3. Sri M.N. Narasimha Reddy, the learned Counsel representing the appellants, would maintain that though the relationship is not in serious controversy and

though several facts are not in serious controversy, the only principal ground on which the relief of partition had been negated, is that the civil death of Nallayya had not been established. The learned Counsel also had explained the scope and ambit of Sections 107 and 108 of the Indian Evidence Act, 1872 (for short "the Evidence Act") and also would further maintain that the original suit, initially was instituted as O.S.No.387/80, on the file of Principal District Munsif, Amalapuram, which was re-numbered as O.S.No.82/83, on the file of the Principal District Munsif, Mummidivaram, and the long lapse of time from the date of the institution of the suit to this day, also may have to be taken into consideration. The learned Counsel also would maintain that it is not the case of the other side that the whereabouts of the said Nallayya had been heard of, at any point of time, by any of the members of the family or at least the general public and when that being so, negating the relief of partition cannot be sustained. Even otherwise, the second appellant herein is the daughter of said Nallayya and in any view of the matter, instead of making an order of remand, it would be just and proper to decree the suit for partition, as prayed for. The counsel also pointed out that even on the aspect of partial partition, the stand taken by the contesting defendants cannot be sustained.

4. The learned Counsel also had taken this Court through the respective pleadings of the parties; the evidence available on record and the findings recorded by the court of the first instance and also by the appellate court. The learned Counsel also relied upon certain decisions to substantiate his submissions. Per contra, Sri V. Ajay Kumar, the learned Counsel representing the respondents, would maintain that in the facts and circumstances of the case, the findings recorded by the appellate court cannot be found fault with, in any way. The learned Counsel also would further maintain that the rights of the parties may have to be decided as on the date of institution of the suit and in the light of the positive findings recorded that, as on the date of the institution of the suit the husband of the 1st appellant not being heard of for 7 years, inasmuch as the same had not been established, the mere fact that subsequent thereto the litigation had been pending for sufficiently a long time, that cannot be taken as a ground since, to satisfy the ingredients of either Sections 107 or 108 of the Evidence Act, certain essentials are to be established and in view of the same, further evidence may be necessary in this regard.

5. The learned Counsel also would further comment that even otherwise, in the light of the specific stand taken that the relief of partition cannot be granted since what is being prayed for by the appellants is only partial partition, even on that ground, decree for partition cannot be passed.

6. Heard the learned Counsel on record and perused the oral and documentary evidence available on record and the findings recorded by the court of first instance and also by the appellate court, as well. For the sake of convenience, the parties are referred to as plaintiffs and defendants, as shown in O.S.No.82 of 1983, on the file of the District Munsif, Mummidivaram.

7. The plaintiffs instituted the suit O.S.No.387 of 1980, on the file of the Principal District Munsif, Amalapuram, praying for the relief of partition of the plaint schedule property in 24 equal shares and for allotment of 7 shares to the plaintiffs and for delivery of possession of the same and award future profits and grant such other suitable relief.

8. The court of first instance, initially, dismissed the suit and being aggrieved of the same, the plaintiffs preferred appeal A.S.No.45 of 1987 and the appellate court made an order of remand to implead the necessary parties to the suit and dispose of the same afresh, in accordance with law. After remand, the court of first instance, on appreciation of the evidence of PW-1 and DW-1, Exs. A-1 and also Ex.B-1 and also on the further evidence recorded of PW-1, PW-2 and DW- 1, DW-2 after recall, and on further examination recorded findings in detail and came to the conclusion that the plaintiffs are entitled to the relief of partition and accordingly decreed the suit, passing a preliminary decree specifying the respective shares with proportionate costs.

9. Aggrieved by the same, the 1st defendant in the said suit preferred A.S.No.19 of 1991, on the file of the Subordinate Judge, Amalapuram, and the appellate court, on appreciation of the oral and documentary evidence, came to the conclusion that the decree and judgment of the trial court cannot be sustained and accordingly allowed the appeal. Aggrieved by the same, the present Second Appeal had been preferred.

10. The substantial questions of law, which arise and had been argued in elaboration in the Second Appeal, had already been specified above. As already referred to supra, the plaintiffs filed the suit for partition with the following averments made in the plaint:

First plaintiff is the wife of Nallayya, who is the son of Geddamma Chinappanna. Geddam China Appanna had two sons viz., Nallayya Sathyavanthudu, through his wife Akkamma. He had no daughters. He gave his 2nd son Satyavantudu in adoption to Varasala Satyam during his childhood. Thus, Nallayya is the only son Chinappanna. The plaint schedule property is their joint family property and Chinappanna is the father-manager of the family. While so, enjoying the plaint schedule property, Nallayya died leaving behind him, his wife Damayanti that is 1st plaintiff and his daughter Baby that is 2nd plaintiff and his mother Akkamma, that is 1st defendant. Thus, plaintiffs and 1st defendant stepped into the shoes of Nallayya. Even after the death of Nallayya, plaint schedule property alone is under the management of Geddam Appanna and the plaintiffs and 1st defendant are in joint possession along with Geddam Chinappanna. While so, Geddam Chinappanna died on 6.2.78, intestate leaving behind him, his wife Akkamma and two daughters, his pre-deceased son's wife Damayanti and her daughter, Baby, are plaintiffs herein. After the death of Chinappanna, 1st defendant became the manager of the plaint schedule property. But, shortly after the death of Chinappanna, the plaintiffs were not treated properly by the 1st defendant and she with the assistance of 2nd defendant necked out the plaintiffs from out of the

joint family house. Having no other go, notice was issued to defendants for separation of the share of the plaintiffs and for accounting. The defendants received the notice but did not give any reply and did not effect partition. The plaintiffs are entitled to 2/5th share of the plaint schedule property. This share was not separated and delivered to plaintiffs. Even though demanded for partition. Hence, the suit for partition. The 2nd defendant has nothing to do with the plaint schedule property. He is claiming as if it is his property bequeathed this property. He is alleging that he got this property by a will of late Geddamm Chinappanna. Even if the will is in existence, it is a fabricated one. It was not executed by late Geddamm Chinappanna in a sound and disposing state of mind. Late Geddamm Chinappanna had right in the property as full owner as joint family property. Hence, the 2nd defendant is not entitled to the plaint schedule property. As he is laying claim over the property, he is added as party for proper and complete execution. As per Hindu Succession Act, u/s 8 of the Act, 1st plaintiff and 2nd plaintiff and 1st defendant are entitled to 1/3rd share of the undivided 1/2 share of late Nallayya. After the death of Geddamm Chinappanna. As per Hindu Succession Act, 1st plaintiff and 2nd plaintiff and 1st defendant are entitled each to 1/3rd share of undivided 1/2 share of late Geddamm Chinappanna. Hence, both the plaintiffs are entitled to 2/5th share of the plaint schedule property. As per Hindu Succession Act, u/s 8, 1st plaintiff and 2nd plaintiff, and 1st defendant, and 3 and 4th defendant entitled to each 1/3rd of the undivided 1/2 share of late Nallayya. After the death of Geddamm Nallayya, as per the Hindu Succession Act, 1st plaintiff, 2nd plaintiff and 1st defendant are entitled to each 1/3rd share in undivided 1/2 share of late Geddamm China Appanna. Hence, both the plaintiffs are entitled to 7/24th of the plaint schedule property. Hence, the suit.

11. The first defendant filed the written statement, which was adopted by the 2nd defendant. The allegations in the plaint were substantially denied in the written statement. It was pleaded as under:

This suit is a speculative suit which is filed in order to gain wrongfully to the plaintiffs and to cause wrongful loss to the defendants if possible. It is submitted that the 1st defendant is the wife of late China Appanna. They had two sons and two daughters namely; 1) Nallayya and 2. Satyavanthudu, and 1. Ethakota Satyavathi wife of Madhavaswamy and 2. Godi Gopidevi, wife of Prabhakar. The 2nd son namely Satyavanthudu was given in adoption to the sister-in-law of China Appanna namely; Varasala Appamma while he was a child. Except the house and the house site at Pasuvullanka all the other plaint schedule properties are the self-acquired properties of late China Appanna. The house and the house site are only ancestral properties which fell to the share of China Appanna and partitioned among his brothers. Late China Appanna died in the 1st or 2nd week of February, 1979. Late China Appanna executed a registered will dated 12.10.78 in a sound and disposing state of mind in respect of all his properties in favour of the defendants keeping life interest in him and thereafter to his wife i.e., the 1st defendant during her lifetime and thereafter to the 2nd defendant with absolute

rights. After the death of late China Appanna the 1st defendant has become life interest holder in respect of the plaint schedule properties and so she has been in possession and enjoyment of the plaint schedule properties. It is not correct that Nallayya died leaving behind his wife Damayanti that is 2nd plaintiff. About 10 years ago, the 1st defendant was beaten indiscriminately by the brother of the 1st plaintiff at the instance of the 1st plaintiff for no fault of the 1st defendant. Since then the 1st plaintiff abandoned the deserted Nallayya and she has been living with her brothers. As Nallayya was unhappy with his wife that is the 1st plaintiff, Nallayya left the village about one year prior to the execution of the will executed by late China Appanna and his whereabouts are not known till today. Nallayya possess no properties and the plaint schedule properties are the self-acquired properties of China Appanna as stated supra. The plaintiffs have no right at all to claim any share in the plaint schedule properties. The plaintiff came into possession of Ac.0.50 cents of lanka land belonging to her husband Nallayya after Nallayya left the village. In fact, it is submitted that the 1st defendant is also entitled for 1/3rd share in Ac.0.50 cents of lanka land belonging to Nallayya. The 1st defendant reserves her right to proceed against her. All the allegations in the plaint contra to the above are denied by the defendant. Therefore, it is submitted that the plaintiffs are not entitled for any share in the plaint schedule property as detained above. It is false that China Appanna died on 6.2.78 intestate. There is no cause of action to file this suit and the cause of action alleged in the plaint is absolutely false. It is also further submitted that Nallayya the husband of the 1st plaintiff cannot be presumed as died. That is why the plaint is silent about the year or date of death of Nallayya.

12. An additional written statement was filed by the 1st defendant and the same was adopted by the 2nd and 4th defendants, wherein it was pleaded as under:

The suit itself is not maintainable as all the joint family properties are not included in the plaint schedule. So partial partition of the joint family properties is not maintainable under law. Without prejudice to the contentions made in the written statement filed by this defendant, it is submitted that Ac.0.50 cents in R.S.No.11/16 of Pasuvulanka village and Ac.0.50 cents in R.S.No.390/1 of Mulapolam village are not included in plaint schedule. This defendant is entitled to 1/3rd share of those properties. Those properties stand in the name of the 1st plaintiff's husband. It is further submitted that the plaintiffs are not entitled to 2/5th share of the plaint schedule property. The plaintiffs are entitled only to 1/4th share of the undivided 1/2 share of late Geddam China Appanna the husband of this defendant. They also entitled 2/3rd share of undivided 1/2 share of the 1st plaintiff's husband but not as alleged.

13. On the strength of these pleadings, the following issues and additional issues were settled:

1. Whether the registered will dated 12.10.78 is true, valid and binding on the plaintiffs?

2. Whether the plaint schedule property is the self-acquired property of China Appanna?
3. Whether Nallayya died or can be presumed to have died?
4. Whether the plaintiffs are entitled to partition and possession of 2/3rd share?
5. Whether the plaintiffs are entitled to future profits and if so at what rate?
6. To what relief?

Additional Issues:

1. Whether the plaintiffs are entitled to 2/5th share of the plaint schedule property?
2. Whether the suit is maintainable for partial partition?
3. To what relief?

14. As already referred to supra, the evidence of PW-1 and DW-1 was recorded initially and Exs. A-1 and B-1 were marked, but on remand, on behalf of the plaintiffs, PWs-1 and 2 were examined. PW-1 was recalled and further examined and PW-2 was examined; likewise DW-1 was recalled and further examined and DW-2 was examined.

15. On appreciation of evidence after remand, a preliminary decree was passed for partition, specifying the respective shares. The appellate court at para (22) framed the following points for consideration:

1. Whether Nallayya died as alleged by the plaintiff or at least whether he had a civil death? If so, this suit is premature?
2. Whether this suit is unsustainable for partial partition?
3. To what relief?

16. It is pertinent to note that at para (30), the appellate court observed as hereunder:

Since Nallayya and China Appanna were joint family coparceners, they are entitled to half share each in the joint family property. Out of the half share of Nallayya, plaintiffs 1 and 2 and 1st defendant are entitled to 1/3rd share each. Out of the half share of China Appanna, 1st defendant, defendants 3 and 4 are entitled to 1/4th share each and the plaintiffs together are entitled to 1/4th share. Thus, the plaintiffs together are entitled to 2/3rd share in the half share of Nallayya and 1/4th share in the half share of China Appanna. Consequently, plaintiffs together are entitled to 11/24th share. 1st defendant is entitled to 7/24th share and defendants 3 and 4 are entitled to 3/24th share each. However, it is of no consequence in view of my findings on points 1 and 2.

17. The two principal grounds, on the strength of which the well-considered

findings of the court of first instance had been reversed are as hereunder:

1. The aspect that Nallayya had a civil death had not been established at any rate, in a way the suit is premature even as per the material available on record.

2. Inasmuch as it is a suit for partial partition, since certain items had not been included in the plaint schedule, the relief cannot be granted.

18. The relationship between the parties is not in serious controversy. The respective shares to which the parties are entitled to also appear to be not in serious controversy.

19. Sections 107 and 108 of the Indian Evidence Act, 1872, read as under: Section 107. Burden of proving death of person known to have been alive within thirty years.-When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

20. Section 108. Burden of proving that person is alive who has not been heard of for seven years.-- 1 [Provided that when] the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is 2 [shifted to] the person who affirms it.

21. The learned Counsel representing the appellants had placed strong reliance on a decision of the Division Bench of this Court reported in Kusam Satyanarayana Reddy and Others Vs. Kusam Sambrajamma (died) by LR. and Others, , wherein the Division Bench while dealing with Order 7, Rule 7 of the Code of Civil Procedure, 1908, held as under:

In view of this judgment and in view of the mandate of Order 7, Rule 7 of the Code which clothes the Courts with inherent power to grant either general relief or other relief which appears to be just, legitimate and proper in any case even though such reliefs have not been specifically asked for. We find no difficulty in this case in upholding the Trial Court's judgment. It may also be, however, noted that under Order 7, Rule 7 of the Code although the Court can grant a relief which has not been asked for, but it cannot grant a relief which is larger than the relief claimed by the plaintiff, but where the relief claimed by the plaintiff is larger and the Court grants a relief which is smaller than the one claimed, it would be legal. In the present case the plaintiffs claimed whole property, but on facts the Trial Court found that they could claim part of the property as legal representatives of the original owner along with some of the defendants. Therefore, in our view, the Trial Court was right in granting the decree of partition.

22. In Balkrishna Koundar Vs. Amirthavalli Ammal and Another, , the learned Judge of the Madras High Court, while dealing with the presumption and proof under Sections 107 and 108 of the Indian Evidence Act, 1872, observed as under:

Under Sections 107 and 108 of the Evidence Act, the burden is on the person, who asserts that the man is dead or alive to prove that he is dead or alive as required by the sections. Where there is no proof that the husband has not been heard of for seven years by those, who would have naturally heard of him if he were alive, it should be held that the woman has not discharged the burden that lay on her to prove that the husband was dead in order to enable her to attain to the position of a widow.

23. In Tadeipalli Ram Rathnam Vs. Kantheti Varadarajulu and Others, , a learned Single Judge of this Court, while dealing with the presumption about continuance of life and death under Sections 107 and 108 of the Evidence Act, observed in Paragraphs 8, 10, 14, 18, 19, 38, 43 and 44 as follows:

8. Section 107 deals with the presumption of continuance of life and Section 108 deals with the presumption of death. Both the presumptions under Sections 107 and 108 come into play after a suit is instituted. These sections deal with the procedure to be followed when in such a suit a question is raised before a court as to whether a person is alive or dead. Section 107 enjoins that when a person's existence is in question, and if he is shown to have been living at a given time within thirty years and there is nothing to suggest the probability of his death, the continuance of life will be presumed, and the person who asserts the contrary has the burden to prove it.

10. In either case, it would be evident that the presumption is always rebuttable. It is not an absolute presumption. The Presumption embodied in Section 108 is by way of a proviso to Section 107.

14. If the two sections are read together it would be evident that it would be erroneous to seek to apply both Sections 107 and 108 to one and the same case and at the same time because a person cannot at the same time both be alive and dead. The court therefore should not attempt to apply to a given case both the presumptions relating to the continuance of life and the counter presumption relating to death. It must always be borne in mind that Section 108 although separately enacted comes only as a proviso to Section 107.

18. Now the question is whether there is any warrant either on the language of Section 108 or on the authority of the decided cases thereunder for the view that if the exact date of death is not proved the earliest date on which the death could be presumed is the date on which the suit was filed. A plain reading of Section 108 in my view does not warrant any such contention. Section 108 relates to burden of proof. It must be remembered that the presumption of life u/s 107 can get rebutted because of the counter presumption available u/s 108, and if the counter presumption holds the field, there is no place for the presumption of life u/s 107 because that stands replaced.

19. It is true that before a presumption u/s 108 is raised, it has to be found out by making an appropriate enquiry that the person has not been heard of for seven years by those who ought to have been heard of him. In that enquiry it is

permissible to show that the allegation that the person has not been heard of for over seven years is not true and that there is evidence to show that he is alive or has been heard of within that period. If it is proved that the person has been heard of within seven years, it is obvious then that the presumption of death u/s 108 cannot be raised. And in such a situation the presumption of life u/s 107, since he has been shown to be alive within 30 years will continue to hold the field. There is however, no warrant for any contention that u/s 108 not only a person who has not been heard of for seven years shall be presumed to have died but further that he shall be presumed to have died on the date of the suit in which the question of his life or death has arisen. Any such contention would mean that the proviso is being interpreted so as to give it a greater effect than strict construction of the proviso i.e., Section 108 renders necessary. This is not permissible. The exact time of death is not a matter of presumption but is a matter of evidence and the onus of proving that fact is not cast u/s 108 but is cast under the general principles of burden of proof. That death took place at any particular time whether prior to seven years before the suit was laid or within seven years prior to the said suit lies upon the person who claims a right to the establishment of which the exact date of death of the said person is essential. There is no presumption that death took place at the close of seven years or earliest on the date of the institution of the suit. No provision of law warrants any such presumption.

38. I am fully fortified in my view by the following two decisions of this Court; Venkateswarlu v. Bapayya AIR 1957 A.P. 380 and Adusumilli Venkata Subba Rao Vs. Gullapalli Subba Rao and Others, .

43. From the above said discussion it would be clear that the decisions relied upon by the learned Advocate for the appellant such as Huseinny J. Bhagat and Another Vs. Life Insurance Corporation of India, Madras, , Parikhit Muduli and Others Vs. Champa Dei and Others, , Smt. Narbada and Another Vs. Ram Dayal, cannot be considered as good law.

44. The view which I have taken is not only supported by the two Bench decisions of this Court to which reference has already been made but also supported by the following decisions: Suburamu Pillai v. Ramayi Ammal (1965) 78 Mad LW 624 , Narayana Pillai Vs. Velayuthan Pillai, and Gnanamuthu Udayar and Another Vs. Anthoni and Others, .

24. In M. Rami Reddi and Anr. v. K. Aravindamma A.S. No. 482 of 1979 DATED 5.3.1984 : 1984 (1) ALT 60, a learned Judge of this Court while dealing with the presumption u/s 108 of the Evidence Act held that:

Section 108 of the Indian Evidence Act, does not have anything to say on the question when a particular person is dead. It only says that when a person is not heard of, for a period of seven years by those who are expected to know about him, that person should be presumed to be dead. It does not go further and say that there is any presumption as to the exact date of death. Section 68 of the

Evidence Act does not help to fix the year of death. So whenever, it becomes necessary to establish in any particular suit that a particular person, whose whereabouts are not known for over seven years, and who, therefore, may be presumed to be dead u/s 108 of the Indian Evidence Act, is dead on a particular date, party alleging the fact viz., specific date of his death must prove that fact. In other words, Section 108 of the Indian Evidence Act, has nothing to do with laying down any presumption whatsoever as to the exact date of death of a person.

25. In *Balwant Rao v. Kerba* AIR 1953 Hyd. 187, it was held that unless it has been established that the whereabouts of a person are not known and he has not been heard of for the past seven years before the date of the suit, the presumption would be that he is alive.

26. Strong reliance was placed in a decision reported in *Venkateswarlu v. Bapayya* AIR 1957 AP 380 and further reliance was placed in *Bulli Abbayi v. Sreeramulu* ILR 1964 AP 823. The aspect of the availability of the presumption; the nature of presumption; the burden of proof in relation thereto and the essentials to be satisfied so as to attract the presumption relating to the civil death of a party being unheard of, these aspects being well-settled, the same need not detain this Court any longer.

27. It is, no doubt, true that on the material available on record, as on the date of the institution of the suit, the period of seven years of the deceased- Nallayya being unheard of, had not been completed. Hence, the said finding cannot be found fault. It is, no doubt, true that normally the rights of the parties to a suit are to be decided as on the date of the institution of the suit. But, however, this is a peculiar case where an order of remand was made and the suit was decreed. Again the matter was carried by way of appeal and the appeal was allowed and the present Second Appeal had been preferred.

28. It is not the case of the contesting defendants that even during this period, even after long lapse of time, at any point of time, the said alleged deceased- Nallayya and his whereabouts had been, in any way, known to any of the family members. When that being so, it cannot be in dispute or controversy that during the pendency of the litigation, the period of seven years being unheard of, had lapsed long long ago. In such a case, on that ground, to drive the 1st plaintiff again to a fresh litigation may not be just and proper. It is, no doubt, true that apart from the 1st plaintiff, the 2nd plaintiff is also on record. The 2nd plaintiff is the daughter of the said Nallayya. It is, no doubt, true that there is no definite evidence relating to the date of death of the said deceased-Nallayya, but his whereabouts are unheard of for sufficiently a long time; definitely from about 4 or 5 years prior to the institution of the suit and it is needless to say that that the suit itself was instituted in the year 1980.

29. Keeping all the above facts and also the peculiar circumstances of the present case, this Court is of the considered opinion that instead of driving the

1st plaintiff to yet another litigation, it would be just and proper if the long lapse of time during the pendency of the litigation also be taken into consideration in deciding the aspect of a civil death of the husband of the 1st plaintiff. It is, no doubt, true that certain essentials are to be satisfied, as can be seen from the provisions of Sections 107 and 108 of the Evidence Act, 1872. It is also true that a plea of partial partition had also been taken. In the facts and circumstances of the case, instead of driving the parties to yet another litigation, this Court is of the considered opinion that it would be just and proper to make an order of remand to the appellate court, giving opportunity to the parties to adduce further evidence on the aspect of the civil death of the husband of the 1st plaintiff and also, if necessary, permit the parties to suitably amend the pleadings, by adding any other items if they are left over, which are said to be liable for partition and decide the matter afresh, in accordance with law.

30. In the light of the same, the decree and judgment of the appellate court are hereby set aside and the matter is remanded for the purposes specified supra. Inasmuch as the suit was instituted in the year 1980 and the parties are fighting the litigation sufficiently for a long time, the appellate court to give top priority to this matter and decide the same in the light of the views expressed by this Court, as specified above, at the earliest point of time. In view of the relationship between the parties, this Court makes no order as to costs.