

(1993) 07 SC CK 0066

In the Supreme Court Of India

Case No : Civil Appeals Nos. 3275-76 Of 1984

Karayadathil Kunhimoosa Manjerintha and Another

APPELLANT

Vs

Valiaparambath M.T. Kalliani (Smt) and Others

RESPONDENT

Date of Decision : 27-07-1993

Acts Referred:

Transfer of Property Act, 1882 — Section 106

Citation : (1995) 3 SCC 403 Supp

Hon'ble Judges : R. M. Sahai, J;Kuldip Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The question before the High court was whether a notice under Section 106 of the Transfer of Property Act served upon one of the several co-heirs of a deceased tenant is valid notice under the law? The Kerala High court relying on judgment of the Single Judge of that High court in Valiyaveetil Konnappan v Mangot Velia Kunniyil Manikkam answered the question in the negative.

2. This appeal by the landlord is against the judgment of the High court.

3. The High court following Konnappan case reversed the decisions of trial court and the lower appellate court which had come to the conclusion that the notice served on one of the co-heirs of the tenant is a sufficient notice under Section 106 of the Transfer of Property Act. The question is no longer res integra. This court in H.C. Pandey v. G.C. Paul has held that after the death of a tenant, all the tenants step into the shoe of the deceased tenant jointly and they are joint tenants under the law. This court has held that service on one of the co-heirs of the tenant is a sufficient service under Section 106 of the Transfer of Property Act.

4. In view of the judgment of this court in H.C. Pandey v. G.C. Paul, the law laid by the learned Single Judge of the Kerala High court is no longer good law. We allow the appeal, set aside the judgment of the High court dated 11/8/1982 and

restore the judgment of the trial court as upheld by the lower appellate court. No costs.