
(2001) 02 SC CK 0135

In the Supreme Court Of India

Case No : Civil Appeal No's. 1055-56 of 2001

Palani Roman Catholic Mission

APPELLANT

Vs

S. Bagirathi Ammal

RESPONDENT

Date of Decision : 02-02-2001

Acts Referred:

Constitution of India, 1950 — Article 136

Citation : (2001) 3 AWC 2247 : (2001) 5 JT 338

Hon'ble Judges : S. Rajendra Babu, J;K. G. Balakrishnan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S. Rajendra Babu and K.G. Balakrishnan, JJ.—Leave granted.

2. After disposal of A.A.O. No. 767 of 1989 and C.R.P. No. 1445 of 1988 by the High Court holding that the Petitioner being a registered Society under the Societies Regulation Act is not a public, religious and charitable institution exempted under Madras City Tenants Protection Act, 1921, a SLP had been filed before this Court under Article 136 of the Constitution. And, this Court by an order made on 3.12.1996 dismissed the same in limine without setting out any reasons. Thereafter, an application for review was filed in the High Court on 2.1.1997. The review petition has been dismissed on the ground that it is not maintainable as the judgment dated 26.7.1996 of the High Court has merged in the order of this Court dated 3.2.1996 dismissing, the special leave petition. The learned Judge in reaching this conclusion relied upon various other decisions of this Court.

3. On behalf of the Appellant, the learned Counsel raised a question whether the judgment of the High Court merges in a non-speaking order of this Court, dismissing the SLP in limine without stating any reasons. This question is no longer res integra. This Court in Kunhayammed and Others Vs. State of Kerala and Another, , has taken the view that an order of the nature made in the SLP

arising out of the order of the High Court, which is a non-speaking order, does not attract the doctrine of merger and it would not substitute the order impugned in the SLP proceedings with the result that the Court was not inclined to exercise its discretion so as to allow the appeal to be filed. This Court has in the said decision proceeded to state that a review can be filed in such a case even after SLP is dismissed inasmuch as no leave had been granted to file an appeal and until there is an appeal in the eyes of law in the Superior Court, review can be preferred in the High Court. In view of the decision in Kunhayammed's case, the order made by the High Court cannot be sustained.

4. The judgment of the High Court is set aside and the matters are remitted to the High Court for fresh consideration of the review petition filed by the Appellant in accordance with law. Inasmuch as the matters are old one, it would be appropriate for the High Court to dispose of them as expeditiously as possible. The appeals are allowed accordingly.