

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.10196-10197 OF 2018
(Arising out of SLP(C)Nos.25260-25261/2018)

FR. GEORGE MANJAKKAL

... APPELLANT(S)

VS.

BIJU UTHUP & ORS.

... RESPONDENT(S)

WITH C.A.Nos.10198-99/2018 @ SLP(C)Nos.27110-11/2018 @
D.No.30572/2018 & C.A.Nos.10200-201/2018 @ SLP(C)Nos.
27112-13/2018 @ D.No.34559/2018

O R D E R

1. Heard learned senior counsel appearing for the parties.
2. Leave granted.
3. In the instant case, the High Court had initially decided the Regular Second Appeal No.64/2017 vide judgment and order dated 30.1.2017. The second appeal was dismissed. Thereafter, review application, i.e., R.P.No.450/2017 was filed. The same had been decided by the Single Bench vide order dated 14.3.2018. The review application had been allowed and the second appeal was ordered to be heard afresh. The Single Bench in the order in review application in concluding portion, directed the Registry to issue the judgment dated 14.3.2018 in Regular Second Appeal No.64/2017. The operative portion of the

order in the review application is extracted hereunder :

"Therefore, this review petition is allowed, to the above extent, for making a clarification as to the nature of the binding force of the observations on "endogamy". The impugned judgment dated 30.1.2017 passed in the Regular Second Appeal is recalled, re-opened and R.S.A. will be re-heard at once. The Registry is directed to issue the judgment dated 14.3.2018 in R.S.A. No.64 of 2017."

4. Thereafter, the judgment had been issued by the Registry of the equal date, i.e., 14th March, 2018 dismissing the second appeal. No doubt about it that it had been mentioned in the judgment in second appeal that the R.S.A. was reopened and reheard and judgment is passed accordingly. However, the fact remains that in the review application there was a direction to issue the judgment which was already prepared. May be the Court had heard the matter allowing review at length along with appeal and thereafter, had decided the same by allowing the review and deciding the second appeal by the said judgment. But that could not be said to be the appropriate procedure. We are not inclined to interfere in the order of review dated 14.3.2018. The second appeal was required to be heard separately. As such, R.S.A.No.64/2017 is required to be reheard and decided afresh.

5. The judgment passed in R.S.A.No.64/2017 dated 14.3.2018 is set aside. The order in Review Petition No.

450/2017 is not interfered with. We request the High Court to hear the parties and to decide the second appeal as expeditiously as possible, unfettered by the observations made in the previous order. We have not expressed any opinion on the merits of the case, as the due process has not been adhered to while deciding the second appeal vide judgment dated 14.3.2018.

6. The appeals are allowed. Pending applications stand disposed of.

.....J.
[ARUN MISHRA]

.....J.
[VINEET SARAN]

New Delhi;
1st October, 2018.

ITEM NO.8

COURT NO.7

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).25260-25261/2018

(Arising out of impugned final judgment and order dated 14-03-2018 in RP No.450/2017 and dated 14-03-2018 in RSA No.64/2017 passed by the High Court Of Kerala At Ernakulam)

FR. GEORGE MANJAKKAL

Petitioner(s)

VERSUS

BIJU UTHUP & ORS.

Respondent(s)

(With appln.(s) for deleting the name of respondent and permission to file addl. documents/facts)

WITH

SLP(C)No.....Diary No(s).30572/2018 (XI-A)

(With appln.(s) for permission....., c/delay in filing SLP, deleting the name of respondent and permission to file addl. documents/facts)

SLP(C)No.....Diary No(s).34559/2018 (XI-A)

(With appln.(s) for c/delay in filing SLP and permission to file addl. documents/facts)

Date : 01-10-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Fali S. Nariman, Sr. Adv.
Mr. Abid Ali Beeran P., AOR
Mr. Subash Sharma, Adv.
Mr. Jacob Simon, Adv.
Mr. Bobby C. Bobby, Adv.
Mr. Chacko Simon, Adv.

Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Abid Ali Beeran P., AOR
Mr. Subash Sharma, Adv.
Mr. Jacob Simon, Adv.
Mr. Bobby C. Bobby, Adv.
Mr. Chacko Simon, Adv.

Mr. Jose Abraham, AOR
Mr. M.P. Srivignesh, Adv.
Mr. B. Mathews, Adv.
Ms. Sarah Shaji, Adv.
Ms. Neema Noor Mohamed, Adv.
Mr. Chacko Simon, Adv.

For Respondent(s) Mr. Raju amachandran, Sr. Adv.
Mr. K. parameshwar, AOR
Mr. George Thomas, Adv.
Mr. Mukunda, Adv.

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

Delay condoned.

Permission to file SLPs is granted.

Leave granted.

The appeals are allowed in terms of the signed order.

(Jagdish Chander)
Branch Officer

(Sarita Purohit)
AR-cum-PS

(Signed order is placed on the file)