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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7176 OF 2002

I.J. GONSALVIS

.....APPELLANT

VERSUS

PHILIPS ALFRED MALVIN & ORS.

.....RESPONDENTS

O R D E R

Heard counsel for the parties.

2. This appeal is directed against the judgment and order dated January 5, 1999 of the Kerala High Court. By the impugned judgment, the High Court upheld the findings of the trial court and reversed those of the first appellate court. The dispute arose on the question of valid adoption of the first respondent. The trial court has returned a finding of valid adoption of the first respondent and against that there is a very clear finding of the first appellate court to the contrary. In coming to the said finding, the first appellate court has given substantial reasons in paragraphs 10 and 11 of its judgment.

3. We are of the view that those findings of the first appellate court were reversed by the High Court without giving adequate reasons.

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4. We are, therefore, of the view that High Court should have given cogent reasons before reversing the conclusions of the first appellate Court. We do not approve the approach of the High Court.

5. We are of the opinion that the matter be remanded for fresh hearing before the High Court, we are not making any further observations on the merits of the case. But we, however, send the case back to the High Court for re-hearing of the second appeal after specifically formulating questions of law and

answering the same in accordance with law. We, however, make it clear that since the matter is pending for quite some time, the High Court may try to dispose of the matter as early as possible, preferably within a period of six months from the date of receipt of this order. Before the High

Court the parties are at liberty to urge all legally permissible points and contentions.

5. The appeal is allowed in the aforesaid terms. No costs.

.....J.
[ASOK KUMAR GANGULY]

NEW DELHI;
SEPTEMBER 10, 2010
ITEM NO.302

.....J.
[R.M. LODHA]
COURT NO.12 SECTION XIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 7176 OF 2002

I.J. GONSALVIS Appellant (s)

VERSUS

PHILIPS ALFRED MALVIN & ORS Respondent(s)

(With appln(s) for urging addl. grounds and office report)

Date: 10/09/2010 This Appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s)
Mr. C.S. Rajan, Sr. Adv.
Mr. T.G.N. Nair, Adv.
Mr. .N. Madhusoodanan, Adv.
Mr. C.N. Sreekumar, Adv.

For Respondent(s)
Mr. Romy Chacko, Adv.

For Attorney General
Ms. Padma Lakshmi Nigam, Adv.

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

The Civil Appeal is allowed.

Court Master

Court Master

(signed order is placed on the file)