

FITEM NO.111

COURT NO.6

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). 6515-6518 OF 2004

STATE OF KERALA & ANR.

Appellant (s)

VERSUS

NALAKATH KADHEEJA & ORS.

Respondent(s)

(With office report)

Date: 29/09/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE T.S. THAKUR

For Appellant(s) Mr. C.S.Rajan, Sr. Adv.
Mr. G. Prakash, Adv.
Mr. V.Senthil, Adv.

For Respondent(s) Mr. R.Nedumaran, Adv.for
Mr. Romy Chacko, Adv.

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

The Appeals are disposed of in terms of the signed
order. No costs.

(Parveen Kr. Chawla) (Indu Satija)
Court Master Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6515-6518 OF 2004

State of Kerala & Another

..Appellants

versus

Nalakath Kadheeja & Others

..Respondents

O R D E R

These Appeals have been filed against the impugned
judgment and order dated 20th December, 2001 passed by the
High Court of Kerala at Ernakulam in M.F.A. Nos.268, 269,

270 and 271 of 1990.

The facts have been set out in the impugned judgment and hence we are not repeating the same here.

The short controversy in this case is whether on the date of vesting, i.e. 10th May, 1971, the land in dispute was a forest land or a rubber plantation. This is a question of fact. The Forest Tribunal held that it was not a rubber plantation. That finding was challenged in a writ petition and the High Court has held that it was a rubber plantation relying upon the Report of the Commissioner appointed by the Tribunal. The High Court has held that the Forest Tribunal had not considered the relevant points and had not taken into account the relevant material on record. If that be so, the High Court should have remanded the matter to the Tribunal for a fresh decision after taking into consideration all relevant materials on the point at issue.

CIVIL APPEAL NO. 6515-6518 OF 2004

-2-

In the circumstances, without going into the merits of the matter, we set aside the impugned judgment of the High Court as well as the decision of the Tribunal and remand the matter to the Tribunal for a fresh decision in accordance with law, expeditiously, after considering all the relevant materials on record as also the Report of the Commissioner.

The Appeals are disposed of in the above terms. No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
SEPTEMBER 29, 2010

.....J.
[T.S. THAKUR]