

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).7026/2005

(From the judgement and order dated 03/12/2004 in AS No. 436/2001 of The
HIGH COURT OF KERALA AT ERNAKULAM)

SOBHA
Petitioner(s)

VERSUS

VARGHESE ZACHARIA AND ORS.
Respondent(s)

(With Appln.(s) for permission to place addl. documents on record and pe
rmission to
produce annexure P-4 to P-6 documents and permission to produce annexures P-7 to P-
10 and with prayer for interim relief and office report)
(FOR FINAL DISPOSAL)

Date: 21/11/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Petitioner(s)
Mr. B.V. Deepak, Adv.
Mr. Dilip Pillai, Adv.
for M/s. TTK Deepak & Co., Advs.

For Respondent(s)
Mr. R. Satish, Adv.
Mr. B.S.Sharma, Adv.

The unsuccessful plaintiff is the appellant in this appeal. She filed the appeal questioning the correctness of the final judgment dated 3.12.2004 passed by the High Court of Kerala in A.S. No. 436/2001. She succeeded before the trial court. The respondents nos.1 and 2 preferred the appeal before the High Court. The High Court on consideration of the entire material placed before it and on re-appreciation of the evidence related both oral and documentary came to the conclusion that the plaintiff has not adduced any acceptable evidence in regard to the entrustment of money and jewelery. We have carefully perused all the records. The High Court in the instant case has discussed the entire evidence both oral and documentary and allowed the appeal filed by the respondent herein.

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When the matter was taken up by the appellant to this Court notice was ordered to the respondents. It is seen from the office report that notice has already been served on Respondents nos. 1 and 2 and the acknowledgment of receipt has also been received. The State of Kerala alone is represented before us through counsel. The High Court while reversing the decision of the lower court and allowing the appeal, has however allowed the appeal with costs.

In the peculiar facts and circumstances of the case we are of the opinion that the cost awarded by the High Court should be set aside. Accordingly only that part of the order awarding cost alone stands set

aside and the above appeal dismissed accordingly.

No costs.

.....J.

(Dr. AR. LAKSHMANAN)

.....J.

(TARUN CHATTERJEE)

NEW DELHI;

NOVEMBER 21, 2006.