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SLP(C)No. 8524 OF 1998

ITEM No.202

Court No. 1

SECTION XIA  
A/N MATTER

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 (Civil) No.8524/1998  
(From the judgement and order dated 13/10/1997 in CRP 1195/97  
of The HIGH COURT OF KERALA AT ERNAKULAM)

KRISHNAN VASUDEVAN & ORS

Petitioner (s)

VERSUS

SHAREEF & ORS

Respondent (s)

( For Final Disposal )

Date : 18/03/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE H.K. SEMA  
HON'BLE MR. JUSTICE G.P. MATHUR

For Petitioner (s)Mr. M.P. Vinod,Adv.  
Mr. Ajay K Jain, Adv.  
Mr. Arvind Kumar, Adv.

For Respondent (s)Mr. P Krishnamoorthy,Sr. Adv.  
Mr. Rajiv Mehta.,Adv.  
Mr. Romy Chacko, Adv.  
Mr. Biswanath Aggarwal, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(D.P. WALIA)  
COURT MASTER

(RADHA R. BHATIA)  
COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2005  
[arising out of SLP(C) No. 8524 of 1998]

Krishnan Vasudevan & Ors. ... Appellants

vs.

Shareef & Ors.... Respondents

O R D E R

Leave granted.

After permitting an amendment in the plaint, the trial court refused to hear an application under Order I Rule 8 of the C.P.C. filed by the plaintiffs on the ground that such an application could not be entertained at that stage.

Order I Rule 8, C.P.C. does not prescribe any stage at which the application can be filed. In our opinion, the trial court ought to have heard and decided the application on its own merits without regard to the stage at which it was filed. The error committed by the trial courts should have been corrected by the High Court.

The appeal is allowed. The impugned order of the High Court dated 13.10.1997 and the order of the trial court dated 12.11.1996 are both set aside. The application under Order I Rule 8, C.P.C. shall be heard and decided on its own merits by the trial court.

.....CJI (R.C. LAHOTI)

.....J  
(H.K. SEMA)

.....J  
(G.P. MATHUR)

New Delhi;  
March 18, 2005.