

.ITEM NO.109

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). 4840 OF 2005

STATE OF KERALA & ANR.

Appellant (s)

VERSUS

M/S. SOUTHERN PLANTATION LTD.

Respondent(s)

Date: 11/11/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. Jaideep Gupta, Sr. Adv.  
Mr. G. Prakash, Adv.

For Respondent(s) Mr. Bechu Kurian Thomas, Adv.  
Mr. V.J. Francis, Adv.

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

The Appeal is allowed 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. 4840 OF 2005

State of Kerala & Another

..Appellants

versus

M/s. Southern Plantation Ltd.

..Respondent

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned  
judgment and order dated 14th July, 2003 passed by the High  
Court of Kerala at Ernakulam in M.F.A. No. 671 of 1998.

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

It appears that out of total area of 668.80 acres of land, earlier 242 acres had been held to be cultivated with cardamom and hence exempted from the purview of Kerala Private Forest (Vesting & Assignment) Act, 1971 (for short 'the Act'). Subsequently, the respondent claimed another 226 acres of land should also be exempted because that was also planted with cardamom. The Forest Tribunal held that it was not planted with cardamom but this finding was reversed by the High Court in appeal.

We have carefully perused the impugned judgment of the High Court and we find that the High Court has given a very cursory and cryptic observation while setting aside the

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judgment of the Forest Tribunal. In our opinion, the High Court should have considered the entire evidence on record and only thereafter given a finding whether 226 acres of land was planted with cardamom and fit for exemption under the Act. The High Court has not, in our opinion, gone into the evidence.

In our opinion, the end of justice would be served if we set aside the impugned order of the High Court as also the order of the Forest Tribunal and remand the matter to the Forest Tribunal with liberty to both the parties to lead fresh evidence. We order accordingly. The Forest Tribunal, after appreciating the entire evidence which is already on record as also the fresh evidence to be led by the parties, shall decide it afresh in accordance with law, expeditiously, after giving an opportunity of being heard, preferably within a period of six months from the date of production of a copy of this order.

The Appeal is allowed in the above terms. No costs.

.....J.  
[MARKANDEY KATJU]

NEW DELHI ;  
NOVEMBER 11, 2010

.....J.  
[GYAN SUDHA MISRA]