

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).11502/2010

(From the judgement and order dated 11/01/2010 in COA No.9/2008 and CRO No.58/2009 of The HIGH COURT OF KERALA AT ERNAKULAM)

S.KRISHNA SHARMA

Petitioner(s)

VERSUS

KANTIMATHY PLANTATIONS P.LTD.TR.M.D.

Respondent(s)

(With appln(s) for interim injunction, prayer for interim relief and office report)

Date: 26/04/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
Mr. K.S. Mahadevan, Adv.
Mr. Krishna Kumar R.S., Adv.
Mr. Rajesh Kumar, Adv.

For Respondent(s)

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

Issue notice, limited to the following query:

In this case, the High Court has remitted the case to Company Law Board ['CLB', for short] vide Paragraph 30 of the impugned judgement, which reads as follows:

....2/-

- 2 -

"In the circumstances, we set aside the order of the Company Law Board and remit the same to the Company Law Board for the limited purpose of considering the reasons put forth in the letter of the company, while refusing to register the shares, and to render its decision as to whether the power has been exercised by the Board bona fide in the interest of the company, in the light of the principles enumerated in the decisions of the Apex Court as referred to above."

In our view, prima facie, the impugned judgement appears to be correct. However, learned senior counsel appearing on behalf of the petitioner herein contends that one of the basic argument of the petitioner was that Articles 13, 14, 15 and 28 do not vest any discretion in the Board of Directors to refuse registration of shares

which requires to be gone into by the CLB in detail. Learned senior counsel made it clear that he has no objection to the matter being remitted to the CLB provided certain observations made on interpretation of Articles 13, 14, 15 and 28 by the High Court are kept open. For this limited purpose, issue notice.

Dasti service, in addition, is permitted.

[T.I. Rajput]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar