

IN THE SUPREME COURT OF INDIA  
 CIVIL APPELLATE JURISDICTION  
 CIVIL APPEAL NOS.2978-2979/2004

P.K. MAMUKKOYA ... Appellant (s)

VERSUS

M. BALAN (DEAD) BY LRS.& ORS ... Respondent(s)

O R D E R

1. Appellant had filed two Civil Miscellaneous Petitions bearing C.M.P. Nos.2289 and 2290 of 2001 in C.C.C. No.594 of 1999, before Division Bench of the High Court of Kerala.

2. In CMP No.2289 of 2001, prayer of the Appellant was that he be allowed to be impleaded as Respondent No.8 and the prayer of the Appellant in CMP No.2290 of 2001 was to clarify the order dated 16.11.2000, passed by the said High Court, whereby direction was given to provide police protection for effecting delivery of subject matter of O.S. No.472 of 1972, decided by Munsif's Court, Kozhikode.

3. By detailed and elaborate order, the Division Bench of the High Court came to the conclusion that no case was made out, to allow the Appellant to be impleaded as Respondent No.8. It has also recorded a finding that since  
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 order dated 16.11.2000, was passed after hearing both sides, therefore, no further clarification of the same was required.

4. During the course of hearing on earlier occasion, it was suggested that the Respondent had interpolated certain dates in the Execution Petition, with an intention to

bring his execution within a period of limitation.

5. On this allegation being made, the matter was referred for investigation before the Registrar (Vigilance) as also the District & Sessions Judge, Kozhikode, to find out if there was any element of truth in what has been alleged by the Appellant.

6. The Reports have been received from both the aforesaid Authorities, wherein it has been found that no such interpolation has been done by the Respondent - Decree Holder or by anyone else, with an intention to bring the execution petition filed by Decree Holder within a period of limitation.

7. On such reports being filed by the parties, we had granted time to the learned counsel appearing for the parties to go through the same and then to advance arguments.

8. After grant of time, the matter was listed today and

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we have accordingly heard the learned senior counsel appearing for Appellant and learned counsel appearing for Respondents, at length and carefully perused the record.

9. After having gone through the impugned order, passed by Division Bench of the High Court, we are of the considered opinion that no case has been made out to interfere against the said order.

10. A decree in favour of the Respondents had been passed as far back as 1975. The matters had ultimately travelled to this Court and by way of a Special Leave Petition, filed against the judgment and order dated 12.02.1999, in ESA 10/96 & AS No.35/96 of the High Court of Kerala at

Ernakulam, the said Special Leave Petition came to be dismissed on 30.07.1999. A copy of the order has been annexed in the record.

11. It is indeed shocking and surprising that a decree, passed in the year 1975, could not be executed till date. Some obstruction or the other is created in the way of Decree Holder to get the fruits of the same. Now the time has come when we cannot allow and permit any further obstruction in the matter, either to be created by the Appellant or by anyone else, stepping in the shoes of the judgment debtor.

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12. In the light of this, we direct the Appellant to hand over peaceful and vacant possession of the suit premises to the Respondents - Decree Holders within a period of three months from today and obtain a receipt of handing over the possession from the Decree Holder.

13. In case, the possession is not handed over within a period of three months from today, then the Appellant would be exposing himself for committing contempt of this Court.

14. With the aforesaid directions, these Appeals stand finally disposed of. Parties to bear their respective costs.

.....J  
[Deepak Verma]

.....J  
[Dipak Misra]

New Delhi;  
March 13, 2012.

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ITEM NO.106

COURT NO.10

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). 2978-2979 OF 2004

P.K. MAMUKKOYA

Appellant (s)

VERSUS

M. BALAN (DEAD) BY LRS.& ORS

Respondent(s)

(With office report)

Date: 13/03/2012 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA  
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s) Mr. Mathai M. Paikeday, Sr. Adv.  
Mr. Shishir Pinaki, Adv.  
Mr. P.I. Jose, Adv.

For Respondent(s) Mr. Siddhartha Dave, Adv.  
Mr. A. Raghunath, Adv.  
Mr. G. Prakash, Adv.

Mr. Ramesh Babu M.R., Adv.

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

These Appeals stand finally disposed of in terms of  
the signed order.

(Sanjay Kumar-II)  
Court Master

(S.S.R. Krishna)  
Court Master

[Signed Order is placed on the file]