
(2000) 01 KL CK 0010

High Court Of Kerala

Case No: A.S. No. 819 of 1999

Rosamma and Others

APPELLANT

Vs

Annamma Francis and
Others

RESPONDENT

Date of Decision: Jan. 20, 2000

Acts Referred:

- Constitution of India, 1950 - Article 141

Citation: (2001) 1 KLJ 214

Hon'ble Judges: P.K. Balasubramanyan, J; K.A. Abdul Gafoor, J

Bench: Division Bench

Advocate: Sebastian Champappilly and Kurian Antony Edassery, for the Appellant;

Final Decision: Dismissed

Judgement

Balasubramanyan, J.

The appellants are the defendants in a Suit for partition. The suit for partition was filed by the daughter of a deceased christian from the Cochin area which was part of the erstwhile State of Cochin. The parties were then governed by the Cochin Christian Succession Act. Before the merger of the States of Cochin and Travancore under a covenant - the erstwhile princely States of Cochin and Travancore merged into the United States of Travancore-Cochin - the persons belonging to the Christian community of the Travancore region, were governed by the Travancore Christian Succession Act. The parliament enacted the Part B States (Laws) Act, 1951 extending the Indian Succession Act, 1925 to the State of Travancore-Cochin. An argument was raised that in view of the Part B States (Law) Act, 1951 and the extension of the Indian Succession Act, 1925 to the State in question, the Christians of the State are governed in the matter of inheritance by the Indian Succession Act, and not either by the Cochin Christian Succession Act or by the Travancore Christian Succession Act. The Travancore-Cochin High Court in Kurian Augusthy v. Devassy (AIR 1957 T.C.I) held that the Christians of the respective areas would be governed by the respective State enactments, and not by the Indian Succession

Act. In the States Reorganisation, under the States reorganization Act, a part of the former State of Travancore had gone to the State of Madras and the same question arose before the High Court of Madras and Ismail J. (as he then was) in *Solomon v. Muthayya* (1974(1) M.L.J. 5) took the view that in view of the Part B States (Laws) Act and the effect of its provisions it would be the Indian Succession Act that would apply to the Christians of the erstwhile princely State of Travancore. This conflict was set at rest by the Supreme Court in the decision in [Mary Roy and Others Vs. State of Kerala and Others](#), . The Supreme Court has categorically held in that decision that the Indian Succession Act would govern and in cases of succession arising after the formation of United State of Travancore and Cochin and the Part B States (Laws) Act, the Christians of the respective regions were governed by the Indian Succession Act and not by the Cochin Christian Succession Act or the Travancore Christian Succession Act. In the present suit, the claim for partition by the daughter of a Christian from the area of Cochin who died after 1.4.1951 (he died on 17.8.1970) was sought to be met by contending that it was the Cochin Christian Succession Act that would govern the parties and she having been paid "Sthreedhanam" at the time of marriage, would not be entitled to claim a share in the properties of the father. The trial court rightly did not accept this argument in view of the decision in *Mary Roy's* case which was the law of the land in view of Article 141 of the Constitution of India. In this appeal, what is contended by the appellants is that going by the relevant provisions of Part B States (Laws) Act and the principles of statutory interpretation, it is possible to hold that the Christians of erstwhile area of the State of Cochin are governed by the Cochin Christian Succession Act, notwithstanding the fact that the Indian Succession Act was extended to the United State of Travancore - Cochin by the Part B States (Laws) Act. In other words, what is sought to be contended is that the decision in *Mary Roy* rendered by the Supreme Court requires reconsideration. We have no hesitation in saying that we have no competence to reconsider the decision in *Mary Roy* or even to consider whether another view is possible. It appears to us that it is for the appellants, if they are so inclined, to raise this aspect before the Supreme Court. In that view, we see no reason why we should admit this appeal and unnecessarily keep it pending in this Court for another four or five years. We therefore decline to admit this appeal. We dismiss the same.

Petition to Special Leave to Appeal Civil No. 13738/2000 from the judgment and order in A.S. 819/99 dated 20-1-2000 was dismissed by the Supreme Court on 10-11-2000 and the Court was pleased to pass the following order:

ORDER

Heard the learned counsel for the petitioners. In our view, the judgment rendered by this Court in [Mary Roy and Others Vs. State of Kerala and Others](#), does not call for any reconsideration. Hence these special leave petitions are dismissed.