

(1964) 08 KL CK 0027

High Court Of Kerala

Case No: C.R.P. No. 46 of 1962

Narayanan Nambiar

APPELLANT

Vs

Ambu Kunhi

RESPONDENT

Date of Decision: Aug. 3, 1964

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 2(2), 47

Citation: (1964) KLJ 944

Hon'ble Judges: M.S. Menon, C.J; M. Madhavan Nair, J

Bench: Division Bench

Advocate: T. Karunakaran Nambiar, for the Appellant; K.S. Subramania Iyer, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Madhavan Nair J.

1. This petition is to revise an order of the Munsif, Taliparamba, dismissing an execution petition filed in O.S. No. 869 of 1951 on his file. The order being one within the scope of Section 47, Code of Civil Procedure, the remedy of the aggrieved decree holder is an appeal under that section, and not an application for revision in the High Court direct. The Supreme Court has held in [Major S.S. Khanna Vs. Brig. F.J. Dillon](#), :

If an appeal lies against the adjudication directly to the High Court, or to another Court from the decision of which an appeal lies to the High Court, it has no power to exercise its revisional jurisdiction, but where the decision itself is not appealable to the High Court directly or indirectly, exercise of the revisional jurisdiction by the High Court would not be deemed excluded.

Orders u/s 47, C.P.C., are decrees within the definition of Section 2(2), C.P.C. and are therefore in the province of a second appeal in this court. It follows from the dictum of the Supreme Court quoted above that a Civil Revision Petition cannot lie in the matter.

The Civil Revision Petition fails and is dismissed.