

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.SOMARAJAN**

**FRIDAY, THE 3<sup>RD</sup> DAY OF FEBRUARY 2023 / 14TH MAGHA, 1944**

**MFA (SUCCESSION) NO. 143 OF 2005**

**AGAINST THE JUDGMENT IN O.S.No.27/2003 DATED 02/12/2004 OF**

**DISTRICT COURT, ERNAKULAM**

**APPELLANTS/ADDITIONAL DEFENDANTS 2 TO 7:**

- 1 T.K.NATARAJAN, S/O LATE KRISHNAN KUTTY ACHARI, R/O. THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR-679 329, MALAPPURAM DISTRICT, KERALA STATE (DIED).
  - 2 T.K. SANTHAKUMARI, W/O. LATE SUKUMARAN ACHARI, R/O. THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR-679 329, MALAPPURAM DISTRICT, KERALA STATE.
  - 3 T.K. SREENIVASAN, S/O. LATE KRISHNAN KUTTY ACHARI, R/O. THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR-679 329, MALAPPURAM DISTRICT, KERALA STATE (DECEASED)
  - 4 T.K. RAJAGOPALAN, S/O. LATE KRISHNAN KUTTY ACHARI, R/O. THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR-679 329, MALAPPURAM DISTRICT, KERALA STATE
  - 5 T.K. BABURAJ, S/O. LATE KRISHNAN KUTTY ACHARI, R/O. THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR-679 329, MALAPPURAM DISTRICT, KERALA STATE
  - 6 T.K. GIREESHKUMAR, S/O LATE KRISHNAN KUTTY ACHARI, R/O. THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR-679 329, MALAPPURAM DISTRICT, KERALA STATE
- ADDL.A7 ALLY, W/O LATE T.K.NATARAJAN, THARAMMAL HOUSE, ARUVAKKODE, NILAMBUR - 679 329, MALAPPURAM DISTRICT, KERALA STATE.
- ADDL.A8 NAVEENRAJ, S/O LATE T.K.NATARAJAN, THARAMMAL HOUSE, ARUVAKKODE, NILAMBUR - 679 329, MALAPPURAM DISTRICT, KERALA STATE.
- ADDL.A9 ANJU NATARAJAN, S/O LATE T.K.NATARAJAN, THARAMMAL HOUSE, ARUVAKKODE, NILAMBUR - 679 329, MALAPPURAM DISTRICT, KERALA STATE.

ADDL.A10 ARCHANA. D/O LATE T.K.NATARAJAN, THARAMMAL HOUSE,  
ARUVAKKODE, NILAMBUR - 679 329, MALAPPURAM DISTRICT,  
KERALA STATE.

ADDL.A11 ANOOP, S/O LATE T.K.NATARAJAN, THARAMMAL HOUSE,  
ARUVAKKODE, NILAMBUR - 679 329, MALAPPURAM DISTRICT,  
KERALA STATE.

LEGAL REPRESENTATIVES OF DECEASED FIRST APPELLANT ARE  
IMPLEADED AS ADDITIONAL APPELLANTS 7 TO 11 AS PER ORDER  
DATED 3/2/2023 IN I.A.NO.4/2022.

BY ADV SRI.K.M.SATHYANATHA MENON

**RESPONDENTS/PLAINTIFFS:**

1 T.K.RAMAN ACHARI, S/O LATE KUTTY ACHARI,  
AGED 72 YEARS, R/O. THACHATHUKANDATHIL HOUSE, PAZHOOR  
KARA, PIRAVOM VILLAGE,, MUVATTUPUZHA TALUK, ERNAKULAM  
DISTRICT. (DIED)

2 R. RAJAMAL, W/O. LATE G.K. RAJAN ACHARI  
R/O. HOUSE NO.31/246, KUNUMBAR CHAND, MNC STREET,  
COMBATURE-641 001, TAMIL NADU STATE.

ADDL.R3 AMMINI AMMAL  
W/O.LATE T.K.RAMAN ACHARI, THACHATHUKANDATHIL HOUSE,  
PAZHOOR, P.O.PIRAVOM, ERNAKULAM DISTRICT, PIN -686 664.

ADDL.R4 OMANA,  
D/O.T.K.RAMAN ACHARI, THARAMMAL HOUSE, ARUVAKKOTTU,  
P.O.NILAMBUR, MALAPPURAM DISTRICT, PIN -679 329.

ADDL.R5 T.R.KUMARI,  
D/O.T.K.RAMAN ACHARI, W/O.HARI.K.K., KAROTTU VEETIL,  
NEAR VIJAYA THEATRE, THEKKE NADA, VAIKOM.P.O., KOTTAYAM  
DISTRICT, PIN -686 141.

ADDL.R6 T.R.BABU,  
S/O.LATE T.K.RAMAN ACHARI, THACHATHUKANDATHIL HOUSE,  
PAZHOOR, P.O.PIRAVOM, ERNAKULAM DISTRICT, PIN -686 664.

ADDL.R7 T.R.JAYAN,  
S/O.LATE T.K.RAMAN ACHARI, THACHATHUKANDATHIL HOUSE,  
PAZHOOR, P.O.PIRAVOM, ERNAKULAM DISTRICT, PIN-686 664.

ADDL.R8 T.R.RAJAN,  
S/O.LATE T.K.RAMAN ACHARI, THACHATHUKANDATHIL HOUSE,  
PAZHOOR, P.O.PIRAVOM, ERNAKULAM DISTRICT, PIN -686 664.

ADDL.R9 T.R.KANNAN,  
S/O.LATE T.K.RAMAN ACHARI, THACHATHUKANDATHIL HOUSE,  
PAZHOOR, P.O.PIRAVOM, ERNAKULAM DISTRICT, PIN -686 664.

(RESPONDENTS 3 TO 9 ARE IMPEADED AS ADDITIONAL  
RESPONDENTS 3 TO 9, WHO ARE LEGAL HEIRS OF DECEASED 1ST  
RESPONDENT (T.R.RAMAN ACHARI) AS PER ORDER DATED 22/1/19  
IN IA 3467/2016.

ADDL.R10 CHINCHU,  
S/O.LATE T.K.SREENIVASAN, THARAMMAL HOUSE, ARUVAKKOTTE,  
NILAMBUR -679 329, MALAPPURAM DISTRICT.

ADDL.R11 CHIPPY,  
(MINOR) AGED 17 YEARS, D/O.LATE T.K.SREENIVASAN,  
THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR -679 329,  
MALAPPURAM DISTRICT, REPRESENTED BY HER GUARDIAN-MOTHER  
4TH RESPONDENT.

ADDL.R12 SANJEEV,  
(MINOR) AGED 12 YEARS, D/O.LATE T.K.SREENIVASAN,  
THARAMMAL HOUSE, ARUVAKKOTTE, NILAMBUR - 679 329,  
MALAPPURAM DISTRICT, REPRESENTED BY HIS GUARDIAN-MOTHER  
4TH RESPONDENT.

ADDITIONAL RESPONDENTS 10 TO 12 ARE IMPEADED AS LEGAL  
HEIRS OF DECEASED 3RD APPELLANT (T.K.SREENIVASAN) AND 4TH  
RESPONDENT IS RECORDED AS ONE OF THE LEGAL HEIRS OF  
DECEASED 3RD APPELLANT AS PER ORDER DATED 22/01/19 IN  
I.A.NO.3469/16.

BY ADVS.  
REJI GEORGE  
SRI.M.V.ANANDAN  
SRI.BINOY DAVIS  
SRI.P.V.GEORGEONAKKOOR  
SRI.JOE JOSEPH KOCHIKUNNEL  
SMT.MANJU RAJAN  
SRI.PAULCY KURIAN

THIS MFA (SUCCESSION) HAVING COME UP FOR HEARING ON 03.02.2023,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**CR****JUDGMENT**

This appeal is against the grant of letters of administration in favour of the plaintiff/petitioner by the trial court, against which the defendant came up.

2. The principal questions came up for consideration are with respect to the permissibility of granting either a probate or letters of administration in substitution of a declaration or adjudication pertaining to testament or Will by a competent civil court, at what stage the jurisdiction to issue a probate or letters of administration can be exercised, what would be the authority that can be extended under a probate or letters of administration and in whose favour it can be issued, besides the question regarding exercise of jurisdiction by the Courts within the State of Kerala.

3. In order to resolve the above said issues, it is necessary to have an understanding with respect to what actually amounts to probate and letters of administration

and the jurisdiction that can be exercised for its issuance. The words "Administrator" and "Probate" are defined under clause (a) and (f) of Section 2 of Indian Succession Act, 1925 (for short, 'the Act') as follows:

"(a) "administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor;

(f) "probate" means the copy of a will certified under the seal of a court of competent jurisdiction with a grant of administration to the estate of the testator."

(emphasis supplied)

4. When there is an appointment or a named person in the testament or a Will as executor, the Court can grant probate to such executor with a "grant of administration to the estate of the testator" and when there is no such executor either named or nominated or appointed by the testator in the Will or codicil (testament), the court can appoint a person with the authority to "administer the estate of a deceased person". In fact, the purpose to be served by an executor or an administrator is identical and same in all respects i.e. administer the estate of deceased person/the testator. The language employed by the

legislature in the definition clause (a) and (f) is so crucial that in clause (a) what is stated is "estate of a deceased person" presumably on the reason that letters of administration can be granted both in the case of testamentary succession and non-testamentary succession, which is clear from the language in Section 212 of the Act. On the contrary, the wording used in clause (f) pertaining to the grant of probate is the expression "estate of the testator" which would make it clear that clause (f) and grant of probate would operate only when there is testamentary succession and not otherwise. The expression used in clause (a) regarding issuance of letters of administration is "estate of a deceased person" and not the testator. This would show that letters of administration can be issued both in testamentary and non-testamentary succession.

5. By the Scheme of the Act, provisions were made to vest a "representative title" over the asset of a deceased person/testator to protect such assets from being defeated or destroyed either due to efflux of time or otherwise. The provisions incorporated in Chapter VIII and IX of the

Act for that purpose are self explanatory with respect to the jurisdiction that can be exercised in the matter of a probate or letters of administration. The cause title to Chapter VIII - "REPRESENTATIVE TITLE TO PROPERTY OF DECEASED ON SUCCESSION" would speak with respect to the concept of a "representative title" which can be extended to the person in whose favour a probate or letters of administration can be issued. In fact, the term "representative title" stands for something in which a person can be vested with an authority to deal with the assets of another alive or dead to protect or to achieve certain purposes irrespective of whether he is having right, title or interest over the property or not and the actions done by such person within the said authority would stand valid and binding. The Court or a competent authority can vest such authority in the form of a "representative title" to an executor named and appointed under a testament by way of probate or to any other person by way of letters of administration. Hence, the term "probate" stands for an authority given to an executor by way of a "representative title" to "administer" the estate of a testator/testatrix.

In the absence of any such executor or nomination or appointment under the testament, it is within the jurisdiction of the Court or competent authority to appoint a person for the said purpose to administer the estate of the deceased by vesting a representative title for that purpose with him. The purpose to be performed and achieved both under letters of administration and probate by the executor and administrator and the vesting of representative title with them are identical and same in all respects. A probate and letters of administration are the two sides of the same coin. The former would come into effect with respect to a testament when there is a named executor under the testament and the latter would come into effect in the absence of such nomination or appointment of an executor and its application would stand extended to both testamentary and non-testamentary succession (intestate succession). The jurisdiction that can be exercised for the issuance of probate or letters of administration is somewhat akin to that of issuance of a Succession Certificate and what makes the difference is that Succession Certificate can be issued only to a legatee



under the Will, but probate can be given to an executor and letters of administration to an administrator, irrespective of whether he is a legatee under the Will or not.

6. The vesting provision under Section 211 of the Indian Succession Act was not made applicable in the case of Hindu, Mohammedan, Buddhist, Sikh [Jaina or Parsi] or an exempted person when the property left out by the deceased would have otherwise passed by survivorship to some other person. Except the exception carved out under sub-section (2), the property would stand vested with any executor or administrator as the case may be for all purposes with a representative title and capacity for and on behalf of all the legatees under the Will or the person entitled to get the assets of the deceased. Section 213 also incorporated in the abovesaid Part VIII deals with "representative title" which can be given to an executor or administrator, but in Section 213, the word "legatee" is also incorporated besides the "executor". The purpose for which Section 213 was incorporated is evident from the language employed therein that unless a probate or letters of administration is granted to any executor or legatee, they cannot claim

any right either as an executor or legatee before any Court of justice. It is incorporated in Chapter VIII dealing with representative title to the property of deceased on succession either testamentary or intestate. Hence, the application of Section 213 of the Act is limited to the scope of Part VIII of the Act, more specifically dealing with the issues of representative title to the property of a deceased on succession. This has to be read along with Section 214 of the Act, which is extracted below for reference:

"214. Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.—(1) No Court shall—

(a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effects of the deceased person or to any part thereof, or

(b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt, except on the production, by the person so claiming of —

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 31 or section 32 of the Administrator General's Act, 1913 (3 of 1913), and having the debt mentioned therein, or

(iii) a succession certificate granted under

Part X and having the debt specified therein, or  
(iv) a certificate granted under the Succession Certificate Act, 1889 (7 of 1889), or  
(v) a certificate granted under Bombay Regulation No. VIII of 1827, and, if granted after the first day of May, 1889, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes."

(emphasis supplied)

7. In order to maintain an action for recovery of debts from the debtors of the deceased and to execute any decree or order passed in that behalf and to proceed upon with any suit or execution proceedings of decree or order pertaining to the deceased, it is a condition precedent to obtain a probate or letters of administration evidencing the grant to him the authority of administration of the assets of the deceased or a certificate granted under Section 31 or 32 of the Administrators-General Act, 1963 with respect to the debt mentioned therein or a Succession Certificate granted under Part X of the Act or under the Succession Certificate Act, 1889, for which, it is explained under sub-section (2) that the word "debt" includes any debt other than rent, revenue or profit payable

on land used for agricultural purposes. Necessarily, the jurisdiction conferred under the abovesaid provision - Section 213 and 214 has to be taken in par with the abovesaid provision in the matter of issuance of various certificates including Succession Certificate. Section 215 of the Act is incorporated with the effect of supersession on grant of probate or letters of administration, but with a saving clause under the proviso to sub-section (2) that the payment, if any made by such holder of such certificate shall be held good against the claim under the probate or letters of administration. A conjoint reading of all these provisions would show that the purpose for which letters of administration or a probate can be granted is akin to that of a certificate that can be granted under Part X of the Act or under Succession Certificate Act, 1889 and it is only a temporary measure in order to protect the assets of the deceased and to recover and manage any debt or security. Necessarily, the executor or the administrator as the case may be, would stand bound by the authority in dealing with the abovesaid administration of assets and responsible to answer all

losses occasioned or liability, if any created during the course of action - the administration of assets before the court or the competent authority as the case may be, who issued the authority.

8. The form for Probate and Letters of Administration included in Schedule VI and VII would further support the purpose for which it can be issued, which are extracted below for reference:

#### **FORM OF PROBATE**

I ----, Judge of the District of ----[or Delegate appointed for granting probate or letters of administration in (here insert the limits of the Delegate's jurisdiction)], hereby make known that on the ----- day of ---- in the year ----, the last will of -----, late of ----, a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will was granted to ---, the executor in the said will named, he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.

#### **FORM OF LETTERS OF ADMINISTRATION**

I ---, Judge of the District of ---[or Delegate appointed for granting probate or

letters of administration in (here insert the limits of the Delegate's jurisdiction)], hereby make known that on the ---- day of ---- letters of administration (with or without the will annexed, as the case may be), of the property and credits of ----, late of ---, deceased, were granted to ----, the father (or as the case may be) of the deceased, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court, within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint."

(emphasis supplied)

9. It is further well evident from the language employed in Part X of the Act under Section 370 of the Act, the provision dealing with the issuance of succession certificate, wherein a restriction was imposed not to grant any succession certificate with respect to any 'debt' or 'security' to which a right is required by Section 212 or 213 to be established by letters of administration or probate. In fact the purpose for issuance of letters of administration or probate is further clarified and embedded under Section 370 under a restrictive provision making it clear that when it is found necessary that any "debt" or

"security" required by Section 212 or 213 to be established by letters of administration or probate, no Succession Certificate can be granted. It is under Section 370(2) the word "security" is defined apart from "debt" as (a) any promissory note, debenture, stock or other security of the Central Government or of a State Government; (b) any bond, debenture, or annuity charged by Act of Parliament of the United Kingdom on the revenues of India; (c) any stock or debenture of, or share in a company or other incorporated institution; (d) any debenture or other security for money issued by, or on behalf of a local authority; (e) any other security which the State Government may, by notification in the Official Gazette, declare to be a security for the purposes of this Part. There is no legal impediment in appointing a legatee under the Will as an administrator and hence, the incorporation of the word "legatee" along with the executor under Section 213 should be understood accordingly. Section 213 of the Act is extracted below for reference:

**"213. Right as executor or legatee when established.**-(1) No right as executor or legatee can be established in any Court of

Justice, unless a Court of competent jurisdiction in India has granted probate of the will under which the right is claimed, or has granted letters of administration with the will or with a copy of an authenticated copy of the will annexed

(2) This section shall not apply in the case of wills made by Muhammadans or Indian Christians and shall only apply-

(i) in the case of wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of the classes specified in clauses (a) and (b) of section 57; and

(ii) in the case of wills made by any Parsi dying, after the commencement of the Indian Succession (Amendment) Act, 1962 (16 of 1962), where such wills are made within the local limits of the ordinary-original civil jurisdiction of the High Courts at Calcutta, Madras and Bombay, and where such wills are made outside those limits, in so far as they relate to immovable property situate within those limits."

(emphasis supplied)

10. This provision has to be read along with the other provisions - Sections 297, 305, 306 and 311 under Chapter VI of Part VIII of the Act. Section 305 says that an executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same power for the recovery of debts as the deceased had when living. Section 306 says that all demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or



against a person at the time of his death, survive to and against his executors or administrators; except causes of action for defamation, assault, as defined in the Indian Penal Code (45 of 1860) or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory. But it would stand subject to the provisions contained in Kerala Torts (Miscellaneous Provisions) Act, 1976 with respect to survival of the cause of action and the right thereof.

11. The effect of probate or letters of administration is mentioned in Section 220 of the Act, which reads thus:

**"Effect of letters of administration.**—Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death."

12. Section 221 says that letters of administration do not render valid any intermediate acts of administrator tending to diminution or damage of the intestate's estate. Section 222 mandates that probate can only be granted to an executor appointed by the Will and Section 223 says that it

cannot be granted to any person who is a minor or is of unsound mind. The restriction imposed that no minor or a person of unsound mind be appointed either as an executor or administrator, would show the nature of probate or letters of administration and authority thereunder which can be granted for doing certain acts through an administrator or executor and such person shall not be a minor or a person of unsound mind. But at the same time, it is permissible under law to grant a decree with respect to any movable or immovable property based on testamentary succession or intestate succession to any minor or to any person of unsound mind and that makes the difference of a decree adjudicating the claim based on a testamentary succession from that of a probate or letters of administration.

13. The executor or the administrator will have the power to dispose of any of the property of the deceased under Section 307(1), but subject to the restriction imposed under sub-section (2) which reads as follows:

"(2) If the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, the general power conferred

by sub-section (1) shall be subject to the following restrictions and conditions, namely:- (i) The power of an executor to dispose of immovable property so vested in him is subject to any restriction which may be imposed in this behalf by the Will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

(ii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,-

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property for the time being vested in him under section 211, or

(b) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property."

14. This provision also shows the extent of power and authority that can be exercised by an executor or administrator and the liability that can be imposed against them. It can be only for the purpose of managing debts or securities as that of the deceased, hence there is no scope for issuing either a probate or letters of administration in the absence of such requirement i.e. to manage debts or

securities of the deceased. It is for that purpose a representative title over the assets left out by the deceased was conferred upon under the statute to the executor or administrator as the case may be and a representative status was also given to represent the deceased in so far as debts and securities are concerned. It is also permissible to revoke letters of administration for "just cause" in accordance with Section 263 of the Act and it was well recognized by the Apex Court in **Swaminathan v. Alankamony [2022 (2) KLT OnLine 1074 (SC)]**. It is yet another factor that draws a difference between a decree that can be drawn based on a testament and issuance of either probate or letters of administration and its legal effect. Rule No.6 and 7 and other provisions incorporated in the Indian Succession Rules (Kerala),1968 would clearly explain the purpose for which a probate or letters of administration can be issued and the liability to account either by the executor or by the administrator as provided under the said Rules.

15. Unless there is a notification by the State Government as mandated under Section 264(2) of the Act, no

jurisdiction can be exercised either for issuance of probate or letters of administration. The Apex Court in **Ravinder Nath Agarwal v. Yogender Nath Agarwal and Others (2021 SCC OnLine SC 86)** has explained the legal position that sub-section (2) of Section 264 imposes a bar upon the Courts in any local area beyond the limits of the towns of Calcutta, Madras and Bombay, from receiving applications for probate or letters of administration, until the State Government, by a notification in the Official Gazette, authorised it so to do, wherever the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, though it has no application to cases, to which Section 57 applies. So far no notification has been issued by the State Government under Section 264(2) of the Act. In the Rules framed by the High Court (Indian Succession Rules (Kerala) 1968), though provisions were made regarding issuance of probate and letters of administration, nothing was incorporated to the effect of notification as mandated under Section 264(2) of the Act. In fact, a notification under Section 264(2) of the Act has to be issued by the Government and in the absence of such notification, no

jurisdiction can be exercised by the Courts within the State of Kerala for issuance of either probate or letters of administration.

16. In the instant case, there is no scope for management of assets left out by the testator or to prepare an inventory. As such, there is no necessity for issuance of letters of administration. Hence, the issuance of letters of administration by the trial court will stand set aside and the petition (suit) will stand dismissed.

The appeal will stand allowed accordingly. No costs.

Sd/-

**P. SOMARAJAN**  
**JUDGE**

SV