IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

W.A.No. 1479 of 2002 (C) IN OP.28303/1999

AGAINST THE JUDGMENT IN O.P. NO.28303/1999 of HIGH COURT OF KERALA DATED 09-04-2002

APPELLANT IN W.A./PETITIONER IN O.P:

T. NITHYANANDA MENON,
RAJID VILLA,
BEHIND CIVIL STATION, PALGHAT-1.

BY ADVS.SRI.S.V.BALAKRISHNA IYER (SR.)
SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
SRI.M.K. SREEGESH
SRI.HAREESH R. MENON

RESPONDENTS IN W.A./RESPONDENTS IN OP:
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1. THE UNION OF INDIA, REPRESENTED BY
THE SECRETARY, MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI.

2. THE CHIEF COMMISSIONER OF INCOME TAX,
CENTRAL REVENUE BUILDING, I.S.PRESS ROAD,
COCHIN-682 018.

3. THE INCOME TAX OFFICER, WARD II, AYAKAR
BHAVAN, PALAKKAD-14.

4. K.C.UNNI NAIR, ADVOCATE, PALAKKAD.

5. V.K.BHAVADASAN NAMBOODIRIPAD, ADVOCATE,
PALAKKAD.

P.T.O.

6. THE DISTRICT COURT, PALAKKAD.

7. THE WEALTH TAX OFFICER, WARD II,
   PALAKKAD.

R1- R3 BY ADV. SRI.JOSE JOSEPH, SC, FOR INCOME TAX
R6 BY SPL.. GOVERNMENT PLEADER, SRI.ALOSIUS THOMAS
R7 BY ADV. SRI.P.K.R.MENON,SR.COUNSEL, GOI(TAXES)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

W.A.NO.1479 OF 2002

APPENDIX

APPELLANT'S ANNEXURES:

ANNEXURE-A	DATED 12.1.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1964-65.
ANNEXURE-B	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1965-66.
ANNEXURE-C	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1966-67.
ANNEXURE-D	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1967-68.
ANNEXURE-E	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1968-69.
ANNEXURE-F	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1969-70.
ANNEXURE-G	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1970-71.
ANNEXURE-H	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1971-72.
ANNEXURE-I	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1972-73.
ANNEXURE-J	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1973-74.
ANNEXURE-K	DATED 20.03.1979, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1974-75.
ANNEXJURE-L	DATED 15.03.1980, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1975-76.
ANNEXURE-M	DATED 15.03.1980, TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1976-77.

RESPONDENTS' ANNEXURES - NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.

W.A.No.1479 of 2002

Dated this the 6th day of July, 2015

<u>JUDGMENT</u>

<u>Antony Dominic, J.</u>

The appellant herein filed O.P.No.28303 of 1999, challenging the orders of assessment passed under the Wealth Tax Act, 1957, against one V. Venugopala Varma Raja, the 'Karanavan' of a Hindu Undivided Family. Before the learned Single Judge, the argument raised was that the assessments orders were for the years 1964-1965 to 1979-1980 and that since the Kerala Joint Hindu Family (Abolition) Act, 1976 came into force with effect from 01.12.1976, the assessments for the periods subsequent thereto against the joint family is without jurisdiction.

2. By the judgment under appeal, the learned Single Judge accepted the contention and invalidated the assessments for the periods subsequent thereto i.e. from 01.12.1976. In this appeal, the contention raised is that on implementation of the Abolition Act (*supra*), the Joint Hindu

Family system itself stood abolished and therefore the assessments against the Joint Hindu Family even for the periods prior to 01.12.1976 could not have been passed after the introduction of the Act.

3. Though this contention raised by the Senior Counsel for the appellant would sound attractive, in the facts of this case, what we notice is that such a contention was not even raised before the learned Single Judge. We also find from the assessment orders produced in this writ appeal that the assessment orders in question were passed on the basis of the returns filed by Sri. V. Venugopala Varma Raja, after the introduction of the Act and representing himself to be the 'Karanavan' of the Hindu Joint Family. It was on that basis, the assessments were completed and during his life time, Sri. Venugopala Varma Raja did not dispute his capacity as 'Karanavan' of the family nor did he challenge the orders passed against him. If that be so, it was not open either to Sri. Raja or to the appellant, who, though a member of the family, is also the purchaser of shares of some of the members of the family, cannot now be contend that the assessments were without jurisdiction. Therefore, we are unable to accept

this contention now raised.

Appeal fails, and accordingly it is dismissed.

Sd/-

ANTONY DOMINIC
JUDGE

Sd/-

SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-