

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

CRP.No. 175 of 2015 ()

**(E.P.NO.4/2008 IN E.A.NO.198/2012 AND E.A.NO.199/2012 IN O.S.NO.214/1976 OF
MUNSIFF'S COURT, MANJERI)**

REVISION PETITIONER/PETITIONER:

**PATHUMMA BEEVI, D/O.ALAVIKKUTTY,
NILAMBUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**

BY ADV. SRI.M.KRISHNAKUMAR

RESPONDENTS/RESPONDENTS:

- 1. K.SURENDRAN,S/O.AYYAPPAN,
NILAMBUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**
- 2. KOTTOLY AHAMMED,S/O.CHEKKUTTY,
NILAMBUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**
- *3. ERAKUTH CHERIYA HAMZA, S/O.KUNHAMMED,
NILAMBUR AMSOM DESOM, NILAMBUR TALUK,
MALAPPURAM DISTRICT. (DELETED).**

***THE THIRD RESPONDENT IS DELETED FROM THE PARTY ARRAY AS PER
ORDER DATED 12/8/2015 IN IA.NO.2061/2015 IN CRP.NO.175/2015.**

R2 BY ADV. SRI.K.RAKESH

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

C.R.P.NO.175/2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEX A **COPY OF THE ORDER DATED 5/6/2008 PASSED BY THE MUNSIFF'S COURT MANJERI IN E.P.NO.4/2008**

ANNEX B COPY OF THE DIRECTIONS ISSUED TO THE AMIN BY THE MUNSIFF'S COURT ON 25/5/2012

RESPONDENT'S ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K.ABRAHAM MATHEW J.

C.R.P.No.175 of 2015

Dated this the 15th day of December, 2015

ORDER

Petitioner is the decree holder in O.S.No.214 of 1976. She filed E.P.No.4 of 2008 for execution of the decree. On 5.6.2008 the executing court by Annexure-A order found that she is entitled to the relief prayed for in the execution petition. But as the boundaries of the properties could not be determined the court deputed an amin to ascertain the boundaries. Thereafter, the petitioner filed an application to appoint a surveyor to ascertain the boundaries. She also filed an application to order police protection for executing the decree. By the impugned common order the learned Munsiff has dismissed the applications.

2. Heard.

3. By the order passed on 5.6.2008 the executing court had already found that the petitioner was entitled to the relief prayed for in the execution petition. It was necessary to determine the boundaries of the property. Amin is not competent to do it. Only a surveyor can do it. That is exactly why the petitioner filed an application to appoint a surveyor. But the learned Munsiff has unfortunately dismissed it . So it is only proper that the order is set aside. But the order refusing to give police protection appears to be reasonable. It is only sufficient that the executing court is directed to appoint a commissioner to supervise the work of the surveyor.

In the result, this Civil Revision Petition is allowed in part. The impugned order on E.A.No.198 of 2012 is set aside. The executing court is directed to appoint a commissioner, and a surveyor as joint commissioner to ascertain the boundaries of the property so that the decree may be executed.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge