

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

OP(C).No. 302 of 2015 (O)

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AGAINST THE ORDER/JUDGMENT IN OS 38/2010 of MUNSIFF COURT, PUNALUR
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PETITIONER(S):

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LATHA, W/O.MANOCHARAN
VALAYAKKAKATHUTHARAYIL VEEDU
VARAVILA P.O. PERUMANTHAZHA MURI, KLAPPANA VILLAGE
KARUNAGAPPALLY TALUK.**

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT(S):

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- 1. SANTHOSH
PUTHUVEDU, KUNNICODE MURI, VILAKKUDY VILLAGE
KOLLAM DISTRICT - 691 508**
 - 2. AVANEESWARAM JAYACHANDRAN
NOW RESIDING AT NO.63/37
KUMARAPPA STREET NUMGAMBAKKAM, TAMIL NADU - 600 034**
 - 3. TALUK SURVEYOR
PATHANAPURAM TALUK OFFICE, PATHANAPURAM
KOLLAM DISTRICT - 689 695**
- R1 BY ADV. SRI.T.P.SAJAN
R1 BY ADV. SRI.M.MOHAMED NAVAZ
R1 BY ADV. SRI.P.SANTHOSH KUMAR (TR)**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 08-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT.P1 - TRUE COPY OF THE PLAINT, O.S.38/2010 DATED 27-10-2010
BEFORE THE MUNSIFF'S COURT, PUNALUR**

**EXHIBIT.P2 - TRUE COPY OF THE WRITTEN STATEMENT DATED NIL IN
O.S.38/2010 BEFORE THE MUNSIFF'S COURT, PUNALUR.**

**EXHIBIT.P3 - TRUE COPY OF THE REPORT AND PLAN FILED BY THE
COMMISSIONER IN O.S.38/2010 BEFORE THE MUNSIFF'S COURT, PUNALUR
DATED 20-01-2013**

**EXHIBIT.P4 - TRUE COPY OF THE DETAILED APPLICATION I.A.1843/2013 IN
O.S.38/2010 BEFORE THE MUNSIFF'S COURT, PUNALUR DATE NIL.**

**EXHIBIT.P5 - TRUE COPY OF THE ORDER DATED 10-12-2014 IN I.A.1843/2013 IN
O.S.38/2010 BEFORE THE MUNSIFF'S COURT, PUNALUR**

RESPONDENT'S EXHIBITS: NIL

R.AV

//TRUE COPY//

PA TO JUDGE

K. ABRAHAM MATHEW, J.

O.P.(C). No.302 of 2015

Dated this the 8th day of September, 2015

J U D G M E N T

Petitioner is the first defendant in O.S.No.38 of 2010 on the file of the Munsiff's Court, Punalur. The commissioner appointed in the case filed a report. The petitioner filed IA.No.1843 of 2013 to set aside the report. By Ext.P5 order the learned Munsiff dismissed the application. The legality of the order is challenged.

2. Heard.

3. Ext.P3 is the commission report. Ext.P4 is the copy of the application filed by the petitioner to set aside the report. The nature of the objections disclose that the court should have posted it for enquiry. But there was no posting for enquiry. The court straight away passed the impugned order. So I am satisfied that the petitioner should be given an opportunity to substantiate her claim that the report is not acceptable.

In the result, this O.P is allowed. Ext.P5 order is set aside. The learned Munsiff is directed to give an

opportunity to the petitioner to adduce evidence to substantiate her claim in I.A.No.1843 of 2013.

sd/-
K.ABRAHAM MATHEW,
JUDGE

R.AV

//TRUE COPY//

PA TO JUDGE