

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

OP(C).No. 313 of 2015 (O)

OS 32/1984 OF PRINCIPAL SUB COURT, ATTINGAL
.....

PETITIONER(S):

**G.HARIDASA SARMA, AGED 73 YEARS
S/O.LATE GOPALAKRISHNAN POTTI, L.N.VIHAR,
VENKULAM NOW RESIDING AT G.N. NILAYAM, VENKULAM, EDAVA,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.K.S.AJAYAGHOSH

RESPONDENT(S):

- 1. GOPALAKRISHNAN POTTI REGUNATHA SARMA,
M.N.VIHAR, VENKULAM DESOM, EDAVA VILLAGE,
THIRUVANANTHAPURAM - 695 311.**
- 2. GOPALAKRISHNAN POTTI BHARATHAN POTTI,
M.N.VIHAR, VENKULAM DESOM, EDAVA VILLAGE,
THIRUVANANTHAPURAM - 695 311.**
- 3. GOPALAKRISHNAN POTTI LAKSHMI NARAYANA SARMA,
L.N.VIHAR, VENKULAM, THIRUVANANTHAPURAM - 695 311.**

BY ADV. SRI.M.P. RAMNATH

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 11-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 313 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT P1 : A TRUE PHOTOSTAT COPY OF THE FINAL DECREE APPLICATION
IE IA. NO.212/2011 DATED 21-10-2011 IN OS.NO.32/1984 ON THE FILE OF
HON'BLE PRINCIPAL SUB COURT, ATTINGAL.**

**EXT P2 : A TRUE PHOTOSTAT COPY OF IA.NO.213/2011 DATED 21-01-2011 IN
OS.NO.32/1984 ON THE FILE OF HON'BLE PRINCIPAL SUB COURT, ATTINGAL.**

**EXT P3 : A TRUE PHOTOSTAT COPY OF THE ORDER SHEET OF IA.212/2011 IN
OS.NO.32/1984 OF COURT BELOW.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. BHAVADASAN, J.

O.P.(C). No. 313 of 2015

Dated this the 11th day of February, 2015.

JUDGMENT

The limited prayer in this Original Petition is for a direction to the Principal Sub Court, Attingal to take up I.A. 212 of 2011 in O.S. 32 of 1984 and dispose it of on merits after considering the objection filed by the petitioner herein.

2. The suit is of the year 1984 and it was with much difficulty a preliminary decree was obtained. Parties thought things would be easier thereafter and the plaintiff filed an application for final decree. It turned out to be a worse situation. A Commissioner was deputed to file the necessary details. But the Commissioner has not filed the report and that compelled the parties to approach this Court for a direction to the Commissioner to file his report. This Court, as is very unusual, issued notice to the Commissioner which compelled the Commissioner to file the report on 16.12.2013. When the commission report was filed, this

Court closed the proceedings before this Court leaving liberty to the petitioners to agitate if they had any grievance regarding the commission report before the appropriate forum.

3. The petitioner and second respondent have filed their objections to the commission report and also prayed for setting aside the commission report also. But no orders were passed on those petitions and the matter is being dragged on. Hence the petitioner approached this Court for appropriate direction.

4. The petitioner prays that there may be a direction to the court below to take up and consider their objection to the commission report and if necessary permit them to adduce evidence and dispose of the matter in accordance with law.

5. Adv. M.P. Ramnath takes notice for respondent No.3. In the light of the order that is proposed to be passed

in this Original Petition, it is felt that notice to the other respondents is not necessary as the rights of the other respondents will not be affected by the order that is to be passed.

In the result, this Original Petition is allowed and Principal Sub Court, Attingal is directed to take up I.A. 212 of 2011 in O.S. 32 of 1984 and dispose of the same after considering the objection filed by the petitioner and any other respondent and if a fresh commission report is to be obtained, the Commissioner may be directed to file a fresh report within a specified time. After obtaining a fresh report, if necessary, the proceedings shall be disposed of within a period of six months thereafter.

sb.

P. BHAVADASAN,
JUDGE