

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

OP(C).No. 347 of 2015 (O)

OS 80/2001 of ADDITIONAL SUB COURT, KOLLAM

PETITIONER(S):

1. HARIKUMAR.M.R., AGED 55 YEARS
S/O.REGHUNATHA PILLAI, KESAVA VILASAM
GLASS FACTORY ROAD, KALAMASSERY, ERNAKULAM.

2. MAHESH, AGED 44 YEARS
S/O.REGHUNATHA PILLAI, KESAVA VILASAM
GLASS FACTORY ROAD, KALAMASSERY, ERNAKULAM.

BY ADVS.SRI.K.C.CHARLES
SRI.M.POLY MATHAI
SRI.VIMAL K.CHARLES
SMT.A.T.RENJU
SMT.NEYA JAMES

RESPONDENT(S):

1. PADMAVATHIAMMA, AGED 75 YEARS
W/O.REGHUNATHA PILLAI, KESAVA VILASAM
GLASS FACTORY ROAD, KALAMASSERY, ERNAKULAM-682347.

2. SREEKUMAR,, AGED 51 YEARS
S/O.REGHUNATHA PILLAI, ALTHARAMADAM, CHITTOOR PO
ERNAKULAM-682034.

3. GANESH KUMAR, AGED 48 YEARS
S/O. REGHUNATHA PILLAI, JUNIOR ENGINEER BCED
C.P.W.D. KENDRIYA SADAN, KORAMANGALA, BANGALORE - 34.

4. NAGESH M.R.,, AGED 45 YEARS
S/O.REGHUNATHA PILLAI, KESAVA VILASAM
GLASS FACTORY ROAD, KALAMASSERY, ERNAKULAM-682347.

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....2/-

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5. KAMALUDDIN,, AGED 64 YEARS
S/O. VEERASAHIB, KALLUVILA PUTHENVEETIL
PEREYAM CHERI, THAZHUTHALA VILLAGE, KOLLAM DISTRICT-688546.
6. ABDUL RAHIM,, AGED 49 YEARS
S/O.SULAIMAN KUNJI, RAHIMA MANZIL
VADAKKUMKARA KIZHAKKECHERIYIL, MUKHATHALA VILLAGE
KOLLAM DISTRICT 688546.
7. LAILA BEEVI,, AGED 53 YEARS
D/O.SULAIMAN HAJI, RASI MANZIL
VADAKKUMKARA KIZHAKKECHERIYIL, MUKHATHALA VILLAGE
KOLLAM DISTRICT-688546.
8. RAMLA, AGED 49 YEARS
D/O.ABDUL KHADER, THATTARUVILA VEETIL
NADUVILAKKA CHERI, MAYYANAD VILLAGE, KOLLAM DISTRICT-688547.
9. SUNIL KUMAR, AGED 40 YEARS
S/O.GOPALAN, GOPALA MANDIRAM, PERAYAM CHERY
THAZHUTHALA VILLAGE-684337.
10. JOHNSON VARGHESE, AGED 47 YEARS
S/O.VARGHESE, PLAMOOTTIL KIZHAKKETHIL, PATTATHANAM PO
PATTATHANAMCHERI, VADAKKEVILA VILLAGE-684336.
11. MOLLY ANTONY, W/O.JOHNSON VARGHESE, AGED ABOUT 43, PLAMOOTTIL
KIZHAKKETHIL, PATTATHANAM PO
PATTATHANAMCHERI, VADAKKEVILA VILLAGE-684336.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 06-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE DECREE IN O.S.NO.80/01 DATED 6/6/2009 ON
 THE FILE OF THE ADDITIONAL SUB COURT, KOLLAM.**
- EXT.P2: TRUE COPY OF THE JUDGMENT PASSED BY THE HON'BLE DISTRICT
 COURT, KOLLAM IN R.S.A.759/2012 DATED 13/01/2014.**
- EXT.P3: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED
 25/8/2014 IN R.P.428/2014 IN R.S.A.759/2012.**
- EXT.P4: TRUE COPY OF I.A.NO.3125/2012 IN O.S.NO.80/2001 ON THE FILE OF
 THE ADDITIONAL SUB COURT, KOLLAM.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P. BHAVADASAN, J.

O.P.(C). No. 347 of 2015

Dated this the 6th day of February, 2015.

JUDGMENT

This is a petition filed under Article 227 of the Constitution of India seeking a direction to the Sub Court, Kollam to take further proceedings in the final decree application filed by the petitioner.

2. O.S. 80 of 2001 was a suit for partition in which a preliminary decree was passed. An appeal was filed and a Second Appeal was also filed which ended in failure and a review petition also, but without success. The preliminary decree became final and the plaintiff moved an application for passing final decree in which he sought for appointment of the Commissioner as early as in March, 2012. The complaint of the petitioner is that the said petition is lying idle without any order being passed. The petitioner says that there may be a direction to the court

below to proceed with the matter and dispose of the final decree application as expeditiously as possible.

3. In the light of the order that is proposed to be passed in this petition, notice to the respondents appears to be unnecessary.

4. The suit is of the year 2001 and 13 years have elapsed and this Court is given to understand that final decree application was filed as early as in 2012. One fails to understand the reason why the commission application has not been disposed of.

This Original Petition is disposed of directing the court below to dispose of the commission application. The court below shall ensure that the commission report is filed within a reasonable time and then take up the final decree proceedings in O.S. 80 of 2001 pending before the Additional Sub Court, Kollam and pass appropriate orders thereon in accordance with law as expeditiously as possible,

at any rate, within a period of six months from the date of receipt of the commission report. This direction will not preclude the court below from considering and disposing of any application pending or filed before the court below in accordance with law.

P. BHAVADASAN,
JUDGE

sb.