

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.BHAVADASAN**

**FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936**

**OP(C).No. 415 of 2015 (O)**  
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**IA.180/15 & 181/2015 IN OS 191/2011 OF MUNSIF COURT, PERUMBAVOOR.**  
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**PETITIONER(S)/PLAINTIFF:**  
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1. SARADHAMMA, AGED 66 YEARS,  
D/O. KARTHIYANIAMMA,  
VAAZHAKKUZHAKKAL HOUSE,  
VENGOLA KARA, VENGOLA VILLAGE,  
KUNNATHUNADU TALUK, ERNAKULAM.
2. SANTHOSH, AGED 36 YEARS,  
S/O. SARADHAMMA, VAAZHAKKUZHAKKAL HOUSE,  
VENGOLA KARA, VENGOLA VILLAGE,  
KUNNATHUNADU TALUK, ERNAKULAM.

**BY ADVS.SRI.P.THOMAS GEEVERGHESE  
SRI.TONY THOMAS (INCHIPARAMBIL)**

**RESPONDENT(S)/DEFENDANTS 1 TO 4:**  
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1. PRABHAKARAN NAIR, AGED 70 YEARS,  
D/O. KARTHIYANIAMMA,  
VAAZHAKKUZHAKKAL HOUSE,  
VENGOLA KARA, VENGOLA VILLAGE,  
KUNNATHUNADU TALUK, ERNAKULAM - 683 556.
2. ARUN, AGED 38 YEARS, S/O. PRABHAKARAN NAIR,  
VAAZHAKKUZHAKKAL HOUSE, VENGOLA KARA,  
VENGOLA VILLAGE, KUNNATHUNADU TALUK,  
ERNAKULAM - 683 556.
3. AJITHA, AGED 40 YEARS, D/O. PRABHAKARAN NAIR,  
VAAZHAKKUZHAKKAL HOUSE, VENGOLA KARA,  
VENGOLA VILLAGE, KUNNATHUNADU TALUK,  
ERNAKULAM - 683 556.

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION  
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**mbr/**

OP(C).No. 415 of 2015 (O)

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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

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- EXHIBIT-P1- TRUE COPY OF THE PLAINT IN O.S.NO.191/2011 ON THE FILE OF  
MUNSIFF COURT, PERUMBAVOOR.
- EXHIBIT-P2- TRUE COPY OF THE ORDER IN IA 1615/2014 DATED 3RD DECEMBER  
2013 OF MUNSIFF COURT, PERUMBAVOOR.
- EXHIBIT-P3- TRUE COPY OF THE AFFIDAVIT AND PETITION FILED IN  
I.A.NO.181/2015 BEFORE MUNSIFF COURT, PERUMBAVOOR.
- EXHIBIT-P4- TRUE COPY OF THE ORDER IN I.A.NO.180/2015 DATED 20TH JANUARY,  
2015.
- EXHIBIT-P5- TRUE COPY OF THE ORDER IN I.A.NO.181/2015 DATED 20TH JANUARY,  
2015.

**RESPONDENT(S)' EXHIBITS:**

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- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

**P.BHAVADASAN, J.**

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O.P.(C) No. 415 of 2015  
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Dated this the 13<sup>th</sup> day of February, 2015

**J U D G M E N T**

The limited prayer made in this petition is for a direction to the Munsiff Court, Perumbavoor to take up Ext.P3 petition said to have been filed by the petitioner and dispose it of as expeditiously as possible, at any rate, sufficiently before the suit comes up for trial. The suit is stated to be listed for trial to 18.02.2015.

2. The petitioner points out that the documents summoned by him is necessary for proper consideration of the issue involved in the suit. The Commissioner and the surveyor who inspected the property filed a report showing that the property cannot be properly identified. Therefore, the plaintiff filed I.A.No. 891/2013 for remitting back the report and plan. That petition was allowed and direction was obtained to conduct the survey by total station machine. I.A.No. 181/2015 was filed seeking production of relevant

files. In order to have a proper measurement of the property, the documents that is sought to be summoned as per Ext.P3, is absolutely necessary.

3. The learned counsel appearing for the petitioner points out that the petition ought to have been considered before the suit comes up for trial since without a proper report and plan, no purpose will be served in going for trial of the suit. It is also pointed out that there was no justification for the court below in posting the I.A. on the same date on which the suit is listed for trial.

4. There seems to be considerable force in the above submission. The court ought to have passed orders on Ext.P3 petition since it has been indicated by the petitioner that the documents so summoned are absolutely necessary for the purpose of getting a proper report and plan for resolving the issues involved in the suit.

5. In the nature of order that is proposed to be passed, it is felt that notice to the respondent is

unnecessary.

This petition is disposed of directing the Munsiff Court, Perumbavoor to take up Ext.P3 petition and dispose it of on merits as expeditiously as possible, at any rate, within a period of one week from the date of receipt of a copy of this judgment.

Sd/-  
**P.BHAVADASAN**  
**JUDGE**

ds

//True copy//

P.A. to Judge