

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

OP(C).No. 418 of 2015 (O)

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AGAINST EXT-P9 ORDER IN IA NO. 973/2014 IN OS NO. 285/1995 OF SUB COURT,
CHERTHALA
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PETITIONER :

**P.S.SURESH
S/O. LATE SURENDRAN,
AGED 47 YEARS, KALARIKKATHARA HOUSE
VAYALAR EAST VILLAGE, PATTANAKKADU P.O.,
CHERTHALA.**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G.**

RESPONDENT :

**ABRAHAM
S/O. JOSEPH,
NEYYARAPPALLY VEETIL
CHERTHALA NORTH MURI,
CHERTHALA TALUK-688 524.**

**BY SENIOR ADVOCATE SRI.P.SANTHALINGAM
BY ADV. SRI.S.SHARAN**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 09-10-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

OP(C).No. 418 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT-P1- TRUE COPY OF PLAINT IN O.S. NO. 285/1995 ON THE FILE OF SUB COURT (DATED 01/11/1995), CHERTHALA.
- EXHIBIT-P2- TRUE COPY OF WRITTEN STATEMENT IN O.S. NO. 285/1995 DATED 24/7/1996.
- EXHIBIT-P3- TRUE COPY OF GIFT DEED NO. 1703 DATED 21/05/1952 OF SUB REGISTRY OFFICE, CHERTHALA.
- EXHIBIT-P4- TRUE COPY OF I.A 1010/2001 IN O.S 285/1995 DATED 05/09/2001.
- EXHIBIT-P5- TRUE COPY OF APPLICATION IN I.A 427/2014 IN O.S 285/1995.
- EXHIBIT-P6- TRUE COPY OF OBJECTION TO EXHIBIT-P5.
- EXHIBIT-P7- TRUE COPY OF I.A. NO. 973/2014 IN O.S 285/1995.
- EXHIBIT-P8- TRUE COPY OF THE OBJECTION TO EXHIBIT-P7 APPLICATION.
- EXHIBIT-P9- TRUE COPY OF ORDER IN I.A 973/2014 IN O.S. NO.285/1995 DATED 18/12/2014 OF SUB COURT, CHERTHALA.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. ABRAHAM MATHEW, J.

O.P.(C).No.418 OF 2015

Dated this the 9th day of October, 2015

J U D G M E N T

Petitioner is the 8th defendant in O.S.No.285 of 1995 on the file of Sub Judge, Cherthala. The suit is for declaration of title, recovery of possession and other reliefs. The learned Sub Judge allowed Ext.P7 commission application filed by the plaintiff/respondent. This is challenged.

2. Heard.

3. There is no dispute that to ascertain the identity of the property, the property has to be measured on the basis of survey plan and the title deeds. The present commission application is the second one. In this second application one of the prayers is to measure the property on the basis of the description in document No.3079/1124 M.E. The learned counsel for the petitioner submits that it is beyond the scope of the suit. On the other hand, the contention of the respondent/plaintiff is that it is the property covered by the said document he obtained from

his father. There is an allegation that the survey number noted in the title deed of the respondent/plaintiff is wrong. If that is true, the property has to be identified on the basis of the document No.3079/1124 M.E also. I think that is necessary to settle the dispute between the parties once and for all. So it cannot be said that the learned Sub Judge was wrong in allowing Ext.P7 application.

In the result, this O.P is dismissed and the learned Sub Judge is directed to expedite dispose of the case.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge