

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

OP(C).No. 462 of 2015 (O)

IA.5857/2013 IN OS 450/2009 of MUNSIF COURT, KOTTARAKKARA DATED 12-12-2014

PETITIONER(S)/1ST PETITIONER/1ST DEFENDANT:

**SATHYANANDAN, AGED 55 YEARS,
S/O. KUTTAPPAN ACHARI, SATHYA VILASOM, NEELASWARAM PO.,
NEDUVATHOOR VILLAGE, KOTTARAKKARA TALUK,
KOLLAM DISTRICT.**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR**

**RESPONDENT(S)/PETITIONERS 2 TO 9 & RESPONDENTS/DEFENDANTS 2 TO 9 &
PLAINTIFFS:**

- 1. USHA KUMARI, AGED 48 YEARS, W/O.SATHYANANDAN
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.**
- 2. SUDHAMONY, AGED 48 YEARS, D/O. CHALLAMMA,
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.**
- 3. KUTTAPPAN ACHARI, AGED 88 YEARS, D/O. CHELLAMMA,
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.**
- 4. CHELLAMMA (DIED),
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.**
- 5. SAROJAM, AGED 57 YEARS, D/O. CHELLAMMA,
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.**
- 6. SUSEELA, AGED 59 YEARS, D/O. CHELLAMMA
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.**

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7. SARALA, AGED 51 YEARS, D/O. CHELLAMMA,
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.
8. SUNITHAMONY, AGED 46 YEARS, D/O. CHELLAMMA,
SATHYA VILASOM, NEELASWARAM P.O, NEDUVATHOOR VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT - 691 506.
9. PRABHAKARAN, AGED 64 YEARS, S/O. SANKARAN,
PLAVILA VEEDU, NEDUVATHOOR VILLAGE, KOTTARAKKARA TALUK,
KOLLAM DISTRICT 691 506.
10. SULOCHANA, W/O. PRABHAKARAN,
PLAVILA VEEDU, NEDUVATHOOR VILLAGE, KOTTARAKKARA TALUK.
KOLLAM DISTRICT 691 506.

R1,R2 & 5-R8 BY ADV. SRI.ARJUN RAGHAVAN
R9 BY ADVS. SRI.ASOK M.CHERIAN
SRI.T.R.RENJITH
SRI.R.ROHITH
SRI.K.JANARDHANA SHENOY

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 07-08-2015, 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 PLAINT IN O.S. NO. 450 OF 2009 FILED BEFORE
THE MUNSIFF COURT, KOTTARAKKARA.**
- EXT. P2:- A TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE
PETITIONER IN O.S. NO. 450 OF 2009 DATED 16-08-2010**
- EXT P3:- A TRUE COPY OF THE COMMISSIUONER REPORT ALONG WITH
MAHAZAR AND PLAN FIELD IN O.S. NO. 450 OF 2009**
- EXT. P4:- A TRUE COPY OF THE I.A. NO. 5957 OF 2013 IN O.S. NO. 450 OF 2009
FILED BY THE PETITIONER DATED 28-11-2013,**
- EXT. P5:- A TRUE COPY OF THE ORDER DATED 12-12-2014 IN I.A. NO. 5857/2013
IN O.S. NO. 450 OF 2009 OF THE MUNSIFF COURT, KOTTARAKKARA
ORDER DATED 12-12-2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

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O.P.(C).No.462 of 2015

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Dated this the 7th day of August, 2015

J U D G M E N T

Exhibit P5 order, by which I.A.No.5857 of 2013 in O.S.No.450 of 2009 was dismissed by the court below, is under challenge. The said I.A. was filed by the defendants for getting the Commissioner's report and plan set aside. The main objection, as against the Commissioner's report and the plan raised by the petitioners is that their property, scheduled as C schedule, was not measured out.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The learned counsel for the respondents have pointed out that the Commissioner and the Taluk Surveyor who assisted the commissioner, were examined before the court below and they have in unequivocal terms deposed

before the court below that the C schedule was also measured out as per the Survey Plan. The same has been plotted out in the plan also.

4. On hearing either side, this Court is of the view that Exhibit P5 order does not suffer from any illegality, irregularity or jurisdictional error. This Original Petition (Civil) is devoid of merits and it is only to be dismissed, and I do so.

In the result, this Original Petition (Civil) is dismissed.

Sd/-

B.KEMAL PASHA
JUDGE