

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

OP(C).No. 522 of 2015 (O)

IN OS NO.27/2013 OF MUNSIF COURT, PONNANI

PETITIONER(S) :

NEELAKANDAN NAMBOODIRI,
AGED 71 YEARS, S/O.NARAYANAN NAMBOODIRI,
VELLAYIL MANAKKAL, TAVANUR AMSOM,
MUVANKARA DESOM, PONNANI TALUK.
MALAPPURAM DISTRICT.

BY ADVS.SRI.K.RAMACHANDRAN
SMT.M.C.BINDUMOL.

RESPONDENT(S) :

GOPALAN,
S/O.KITTU, KODIPPARAMBIL HOUSE,
KADAKASSERY DESOM,
THRIKKANAPURAM AMSOM, PONNANI TALUK,
P.O. THRIKKANAPURAM,
MALAPPURAM DISTRICT - 679 573.

BY ADV. SRI.RAJESH SIVARAMANKUTTY.

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 10-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1: TRUE COPY OF I.A.474/14 DATED 22.3.2014 IN O.S.27/2013
BEFORE THE MUNSIFF COURT, PONNANI.

EXT.P2: TRUE COPY OF THE ORDER DATED 27.1.2015 IN I.A.NO.474/2014
IN O.S.27/2013 OF THE MUNSIFF COURT, PONNANI.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

B.KEMAL PASHA, J.

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O.P.(C). No.522 of 2015

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Dated this the 10th day of June, 2015

J U D G M E N T

An application for the issue of a commission was filed as I.A.No.474 of 2014 in O.S.No.27 of 2013 of the Munsiff's Court, Ponnani. The said application was allowed. On 27.01.2015, the Advocate Commissioner submitted before the court below that the parties had not co-operated with the execution of the commission warrant, even though the notice of his visit to the property was given earlier. On accepting the said submission, it seems that the court below has closed the I.A. through Exhibit P2 order.

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

3. The learned counsel for the petitioner submits that the said Commissioner, who reported about the non-co-operation of the parties, was appointed, when the earlier Advocate Commissioner, who was appointed in the matter,

was not ready and willing to execute the order.

4. The learned counsel for the petitioner submits that Adv.Sri.Pradeep, who was the earlier Advocate Commissioner, is ready and willing to execute the order, provided he is appointed. The learned counsel for the respondent has requested that the respondent may be permitted to file a work memo for getting some matters to be ascertained by the Commissioner.

5. On going through Exhibit P2 and on hearing either side, this Court satisfied that Exhibit P2 is only to be set aside. I.A.No.474 of 2014 is revived and allowed. The court below shall appoint the earlier Advocate Commissioner namely Adv.Sri.Pradeep and issue commission warrant. The respondent is permitted to submit a work memo to the Commissioner so that the matter requested in the work memo should also be ascertained.

In the result, this Original Petition (Civil) is allowed as above.

Sd/-
B.KEMAL PASHA
JUDGE