

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

OP(C).No. 558 of 2015 (O)

OS 41/2012 of SUB COURT, THIRUVALLA

PETITIONERS/DEFENDANTS :

- 1. KOMALAVALLI AMMA, AGED 62 YEARS,
W/O SURENDRAN PILLA
RESIDING AT MANNARAPADAVATH HOUSE,
PUNNAMATTOM MURI, MALLAPPALLY.**
- 2. SUNEESH @ SUMESH, AGED 32 YEARS,
S/O.SURENDRAN PILLA
RESIDING AT MANNARAPADAVATH HOUSE,
PUNNAMATTOM MURI, MALLAPPALLY.**

BY ADV. SRI.BABU PAUL

RESPONDENT/PLAINTIFF :

**RAVINDRA PANICKER, AGED 62 YEARS,
N/O VASUDEVA PANICKER
RESIDING AT CHATTUVELIL HOUSE,
PUNNAMATTOM KARA, MALLAPPALLY, PIN-689584.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 03-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

OP(C).No. 558 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE PLAINT IN O.S.41/2012.

EXT.P2: TRUE COPY OF THE OBJECTION TO THE COMMISSION REPORT
DATED 6/2/2015

EXT.P3: TRUE COPY OF THE I.A.210/15 IN O.S.41/12 DATED 6/2/2015.

EXT.P4: TRUE COPY OF THE WITNESS LIST DT.3/2/2015 BY THE PETITIONERS.

EXT.P5: TRUE COPY OF THE I.A.265/2015 IN O.S.41/2012 DATED 24/2/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.BHAVADASAN, J.

O.P.(C) No. 558 of 2015

Dated this the 03rd day of March, 2015

J U D G M E N T

In this original petition under Article 227 of the Constitution of India, the limited prayer sought for is for a direction to the Sub Court, Thiruvalla to issue carbon copy or certified copy, as the case may be, of the order on Ext.P5 i.e. I.A.No. 265/2015 in O.S.No. 41/2012 dated 24.02.2015 and till such time, the trial of the suit may be deferred.

2. The petitioners are defendant in O.S.No. 41/2012 and the suit is one for fixation of boundary. Petitioners say that there was a Commission report initially and without notice to the petitioners, the Commission report was remitted and that they came to know only at the time of trial. They therefore took objection to the same and filed Exts.P2 and P3 petitions. Those petitions were dismissed on 18.02.2015. Thereafter, petitioners filed application to recall the Survey Commissioner for further cross examination. A

true copy of I.A.No. 265/2015 dated 24.02.2015 is produced as Ext.P5. Petitioners point out that the said petition was dismissed by order dated 27.2.2015. The suit now stands posted for further evidence to 05.03.2015. Petitioners say that they are greatly prejudiced by the order especially, when the two other earlier applications have been dismissed on untenable grounds, at least, they should have been allowed to recall the witness. Whatever that be, petitioners pointed out that they are unable to challenge the order on Ext.P5 since no copy has been given to them and they are handicapped in that regard. They therefore pray that there may be a direction for issuance of carbon copy or certified copy of the impugned order.

3. Considering the nature of relief sought for in this petition and in the nature of order that is proposed to be passed, it is felt that notice to the respondent is unnecessary.

This petition is allowed and the court below is directed to issue carbon copy or certified copy, as the case may be, of the order on Ext.P5 petition i.e. I.A.No. 265/2015 dated 24.2.2015 within a period of one week from today and trial of the suit shall stand deferred for two weeks.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge