

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

OP(C).No. 616 of 2015 (O)

**I.A.NO.2056/2014 IN FDIA.NO.207/2013 IN O.S.NO.555/2011 OF THE PRINCIPAL
SUB COURT, THALASSERY.**

PETITIONER(S) :

**K.DINESHAN, S/O.RAMAN,
ADWAITH, NEAR KANNUR MEDICAL COLLEGE,
ANJARAKANDY AMSOM, MAMBA DESOM.**

**BY ADVS.SRI.P.V.MIDHUN
SRI.K.PRASAD (KANNUR)
SRI.M.M.SHIJIN NAMBIAR**

RESPONDENT(S) :

- 1. K.DIVYA, S/O.LATE SARASA,
POKARATH HOUSE, PERUNTHRIKKOVIL P.O., KIZHUNNA,
KANNUR, PIN- 670 108.**
- 2. K.LAKSHMANAN, S/O.RAMAN,
KOTTAKKANDI HOUSE, NEAR KATTERI PEETIKA,
P.O.EACHUR, KANNUR, PIN- 670 108.**
- 3. K.PUSHKARAN, S/O.RAMAN,
VAZHAYILL HOUSE, ANJARAKANDY AMSOM,
THATTERI DESOM, PIN- 670 612.**
- 4. K.RUGMINI, D/O.RAMAN,
VAZHAYILL HOUSE, ANJARAKANDY AMSOM,
THATTERI DESOM, PIN- 670 612.**
- 5. K.BHARGAVI, D/O.RAMAN
BHAGI NIVAS, PALLIMMUNNU AMSOM DESOM,
KANNUR, PIN- 670 613.**

**R1 -R 4 BY ADV. SRI.C.P.PEETHAMBARAN
R5 BY ADV. SRIC.H.NITHIN**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF COMMISSION REPORT, SHARE LIST, ACCOUNT AND PLAN FILED BY ADV.COMMISSIONER IN FDIA NO.207/2013.**
- EXT.P2: TRUE COPY OF THE PETITION FILED BY RESPONDENT NO.5 IN THE FDIA NO.207/2013 TO REMIT THE COMMISSION REPORT.**
- EXT.P3: TRUE COPY OF THE ORDER DATED 07.02.2015 PASSED BY PRINCIPAL SUB COURT, THALASSERY IN I.A NO.2056/2014 IN FDIA NO.207/2013 IN O.S NO.555/2011.**

RESPONDENT(S)' EXHIBITS :

- EXT.R5(1): TRUE COPY OF THE PRELIMINARY DECREE DATED 14.09.2012.**
- EXT.R5(2): TRUE COPY OF THE LAND TAX RECEIPT DATED 19.12.2009.**

//TRUE COPY//

P.S.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

.....
O.P.(C) No.616 of 2015

.....
Dated this the 3rd day of July 2015

J U D G M E N T

A Commissioner was appointed in a final decree proceedings. The Advocate Commissioner filed a report, and a plan was also appended with it. The petitioner has serious challenges with regard to the plot allotted to him. The petitioner has filed I.A.No.2056/2014 before the court below. The court below, through Ext.P3 order, has permitted the petitioner to adduce evidence in the final decree application with regard to allotment of any other plot that is marked by the Commissioner. The court below has taken the view that as the dispute is only with regard to the allotment of plots marked by the Commissioner, the same

can be decided at the time of the passing of the final decree.

With the said observation the above said IA was dismissed.

2. When the right of the petitioner to challenge the plot identified by the Commissioner to be allotted to the petitioner is safeguarded, Ext.P3 need not be interfered with. Matters being so, this Original Petition can be disposed of by directing the court below to give an opportunity to the petitioner to challenge the feasibility of the allotment made by the Commissioner. The petitioner can adduce evidence in the matter and claim any other plot identifiable by the Commissioner.

With the above observation, this Original Petition is disposed of.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge