

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

OP(C).No.626 of 2015 (O)

(OS NO.83/2011 OF THE SUB COURT,ALAPPUZHA DATED 3.2.2015).

PETITIONER:

**SUNDAR LAL,AGED 48 YEARS,S/O.VASU,
NOW RESIDING AT KALPAKATHURUTHU VEEDU,
C/O.MARY,S.L.PURAM,ALAPPUZHA.**

BY ADV. SRI.B.PRAMOD

RESPONDENT:

**MADHUSUDHANAN,AGED 53 YEARS,S/O.PARTHAN,
RATNALAYAM(KALLUCHIRAVELIYIL),WARD NO.13,
MADAYAMTHODU,NORTH ARYAD P.O.,
ALAPPUZHA-688534.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 06-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

OP(C).No.626 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE PLAINT IN O.S.NO.83/2011 OF THE SUB COURT,
ALAPPUZHA.

EXT.P2:TRUE COPY OF THE WRITEN STATEMENT AND COUNTER CLAIM FILED
BY THE PETITIONER IN O.S.NO.83/2011 OF THE SUB COURT,ALAPPUZHA.

EXT.P3:TRUE COPY OF THE I.A.NO.42/2015 ALONG WITH ACCOMPANYING
AFFIDAVIT FILED IN O.S.NO.83/2011 OF THE SUB COURT,ALAPPUZHA.

EXT.P4:TRUE COPY OF AN OBJECTION FILED BY THE RESPONDENT IN
I.A.NO.42/2015 ALONG WITH ACCOMPANYING AFFIDAVIT FILED IN
O.S.NO.83/2011 OF THE SUB COURT,ALAPPUZHA.

EXT.P5:TRUE COPY OF THE ORDER DATED 3.2.2015 I.A.NO.42/2015 ALONG WITH
ACCOMPANYING AFFIDAVIT FILED IN O.S.NO.83/2011 OF THE SUB
COURT,ALAPPUZHA.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P. BHAVADASAN, J.

O.P.(C). No. 626 of 2015

Dated this the 6th day of March, 2015.

JUDGMENT

The petitioner brought upon himself an unfortunate situation by moving an application for issuance of a commission in a suit for specific performance. In his anxiety to demolish the vendee, he sought for issuance of a commission to assess the market value of the property. The primary intention was to prove that valuation of the property was much more than the sale consideration contained in the agreement for sale.

2. Unfortunately for the petitioner, not only the court dismissed the petition, but almost decreed the suit. The petitioner, aggrieved by the said order, has come up before this Court.

3. It was quite unfortunate and unnecessary for the petitioner to seek issuance of commission to assess the market value of the property which could have been proved

by adducing other evidence, either documentary or oral evidence. The valuation by the commissioner is at best an opinion only. A production of the recent comparable sale deeds are more authentic in nature. Therefore, the court below is justified in dismissing the petition.

This Original Petition is disposed of holding that the observations unnecessary for disposal of commission application made by the court below shall stand expunged and the court below shall dispose of the suit on merits and in accordance with law. However, the dismissal of the commission application will not preclude the petitioner from adducing evidence regarding the nature of the property by other legal means.

sb.

P. BHAVADASAN,
JUDGE