

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

OP(C).No. 1000 of 2015 (O)

(O.S.31/2010 OF SUB COURT, HOSDURG)

PETITIONER/1ST RESPONDENT:

V. RAVEENDRAN, AGED 53 YEARS,
S/O. MANIKKAM AMMA, MUCHILOTTU HOUSE,
KIZHAKKUMKARA, KANHANGAD P.O.,
HOSDURG TALUK, KASARAGOD.

BY ADV. SRI.A.ARUNKUMAR

RESPONDENT/APPLICANTS/2ND RESPONDENT:

1. P.V. LOHITHAKSHAN, AGED 47 YEARS,
S/O. MANIKKAM AMMA, MUCHILOTTU HOUSE,
KIZHAKKUMKARA, KANHANGAD P.O.,
PRESENTLY RESIDING AT C/O. LATHA SURESH,
THUNOLI HOUSE, MADICAL, KANKOL,
BAKKALAM P.O., TALIPARAMBA TALUK, KANNUR DISTRICT.
2. MANIKANDAN, AGED 47 YEARS,
S/O. MANIKKAM AMMA, MUCHILOTTU HOUSE,
KIZHAKKUMKARA, KANHANGAD P.O.,
PRESENTLY RESIDING AT C/O. LATHA SURESH,
THUNOLI HOUSE, MADICAL, KANKOL,
BAKKALAM P.O. TALIPARAMBA TALUK,
KANNUR DISTRICT.
3. LATHA SURESH, AGED 37 YEARS,
W/O. SURESH BABU, THUNOLI HOUSE,
MADICAL, KANKOL, BAKKALAM P.O.,
TALIPARAMBA TALUK, KANNUR DISTRICT.
4. SREEDEVI, AGED 39 YEARS,
D/O. MANIKKAM AMMA, NEAR MUCHILOTTU TEMPLE,
KIZHAKKUMKARA, KANHANGAD P.O.,
HOSDURG TALUK, KASARAGOD.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.(C) 1000/2015

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF WRITTEN STATEMENT FILED BY PETITIONER IN O.S.31/2010 OF COURT OF SUBORDINATE JUDGE, HOSDURG.
- EXT. P2 : COPY OF JUDGMENT DTD.21.10.2010 IN O.S.31/2010 OF COURT OF SUBORDINATE JUDGE, HOSDURG.
- EXT. P3 : COPY OF DECREE DTD.21.10.2010 IN O.S.31/2010 OF COURT OF SUBORDINATE JUDGE, HOSDURG.
- EXT. P4 : COPY OF APPLICATION FOR AS F.D.I.A.91/2011 OF SUBORDINATE JUDGE, HOSDURG.
- EXT. P5 : COPY OF COUNTER FILED BY PETITIONER IN F.D.I.A 91/2011.

RESPONDENT'S EXHIBITS: NIL.

// True copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.1000 OF 2015

Dated this the 7th day of April, 2015.

J U D G M E N T

In a partition suit, objection was raised by the petitioner that item No.7 scheduled to the preliminary decree is not liable for partition. He relied on the pendency of a Regular Second Appeal before this Court in support of his contention.

2. In the suit for partition, preliminary decree was passed and final decree proceedings are going on. A Commissioner has been appointed for the purpose of passing final decree.

3. The petitioner points out that he has filed Ext.P5 objection for passing final decree. He apprehends that without considering his objection, final decree may be passed.

4. The above apprehension is without any basis. It is inconceivable that the court which is dealing with the matter will dispose of the matter without considering the objection filed by one of the parties. Merely because a commission is issued does not mean that the court below has ignored the objection filed by

the petitioner. The order of the court below to issue a commission for effecting partition cannot be found fault with.

There is no reason to believe that the objection filed by the petitioner (Ext.P5) for excluding item No.7 and the claim made with regard to monetary benefits will not be considered by the court below while passing final decree.

This original petition is disposed of as above.

Sd/-

P.BHAVADASAN
JUDGE

smp