

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

OP(C).No. 1177 of 2015 (O)

IA.1405/2015 IN OS.362/2014 & OS 916/2013 of III ADDL. MUNSIF & RENT CONTROL COURT, ERNAKULAM.

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PETITIONER(S):

1. DR.P.V. LOUIS, AGED 52 YEARS,
S/O.LATE DR.P.A.VARGHESE, RESIDING AT
HOUSE NO.28/3630, PULIKKAL HOUSE,
WATER FRONT ENCLAVE CHILAVANNOOR DESOM,
ELAMKULAM VILLAGE, PIN - 682 020.
2. M/S.PULIKKAL CONSTRUCTIONS, WITH ITS OFFICE AT
MANIKKIRI ROAD, PALLIMUKKU, COCHIN - 16,
REPRESENTED BY SOLE PROPRIETOR
IST DEFENDANTDR.P.V.LOUIS.
3. MRS.TESSY LOUIS, AGED 51 YEARS,
W/O.DR.P.V.LOUIS, RESIDING AT HOUSE NO.28/3630,
PULIKKAL HOUSE, WATER FRONT ENCLAVE,
CHILAVANNOOR DESOM, ELAMKULAM VILLAGE, PIN - 682 020.

BY ADVS.SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU

RESPONDENT(S):

1. PULIKKAL AVENUE RESIDENTIAL APARTMENT
OWNERS ASSOCIATION, AN ASSOCIATION
REGISTERED UNDER TRAVANCORE COCHIN
LITERARY SCIENTIFIC AND CHARITABLE
SOCIETIES REGISTRATION ACT HAVING ITS
REGISTERED OFFICE AT PULIKKAL AVENUE
KATHRIKADAVU JUNCTION, KALOOR,
KOCHI - 682 017, REPRESENTED BY ITS PRESIDENT
VIJAYAN P.R. S/O.P.K.RAGHAVAN, AGED 68 YEARS,
RESIDING AT DWARAKA, MRA 18, MANJUMMAL,
UDYOGAMANDAL P.O., PIN - 683 501.

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2. N.S.JAMSHY, AGED 47 YEARS,
S/O.SUBRAMANIAM, BAKER AND BAKERS
SUPER MARKET, GROUND FLOOR,
PULIKKAL AVENUE, KATHRIKADAVU,
COCHIN - 682 017.

R1 BY ADVS. SRI.V.KRISHNA MENON
SMT.A.B.BEENU

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 07-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

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APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P-1:** TRUE COPY OF THE PLAINT IN O.S. 916 OF 2013 ON THE FILE OF THE ADDITIONAL MUNSIF RENT CONTROL COURT, ERNAKULAM DATED 31.8.2013.
- EXT.P-2:** TRUE COPY OF THE WRITTEN STATEMENT DATED 12.12.2013 FILED BY THE PETITIONERS IN O.S. 916 OF 2013 ON THE FILE OF THE MUNSIF'S COURT, ERNAKULAM.
- EXT.P-3:** TRUE COPY OF THE PLAINT IN O.S. 362 OF 2014 DATED 18.3.2014 ON THE FILE OF THE MUNSIF'S COURT, ERNAKULAM.
- EXT.P-4:** TRUE COPY OF THE WRITTEN STATEMENT DATED 20.6.2014 FILED BY THE DEFENDANTS 1 TO 3 IN O.S. 362 OF 2014 ON THE FILE OF THE MUNSIF'S COURT, ERNAKULAM.
- EXT.P-5:** TRUE COPY OF THE COMMISSION APPLICATION DATED 10.2.2015 FILED BY THE FIRST RESPONDENT AS I.A. 1405 OF 2015 IN O.S. 362 OF 2014 AND O.S. 916 OF 2013.
- EXT.P-6:** TRUE COPY OF THE COUNTER AFFIDAVIT DATED 10.3.2015 FILED BY THE PETITIONERS TO I.A. 1405 OF 2015.
- EXT.P-7:** TRUE COPY OF THE ORDER DATED 12.3.2015 IN I.A. 1405 OF 2015 IN O.S. 362 OF 2014 AND O.S. 916 OF 2013 ON THE FILE OF THE MUNSIF'S COURT, ERNAKULAM.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K.ABRAHAM MATHEW, J.

O.P.(C). No.1177 of 2015

Dated this the 7th day of October, 2015

JUDGMENT

Petitioner is the first defendant in O.S.362 of 2014 before the Munsiff Court, Ernakulam. The prayer is to set aside the order passed on I.A.No.1405 of 2015 filed for deputation of a commissioner for local inspection.

2. Heard learned counsel on both sides.

3. Pursuant to the order passed in I.A.No.1405 of 2015 the commissioner has filed a report. So the order to appoint the commissioner cannot be set aside. The learned counsel submits that certain facts noted in the commission report are beyond the scope of the suit. If that is true, even if those facts are stated in the commission report the court can exclude them from consideration. It is a matter for the trial court to consider the relevancy of those facts.

In the result, this OP is disposed of with the above observation.

**K.ABRAHAM MATHEW
JUDGE**