

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

OP(C).No. 1264 of 2015 (O)

OS 154/2013 OF MUNSIFF COURT, TIRUR

PETITIONER(S)/PETITIONER/PLAINTIFF:

KAKKIDI PUTHIYATTI PARAMBIL ABDULLAKKKUTTY,
AGED 48 YEARS, S/O. MOOSAKKUTTY, PURATHOOR AMSOM,
MUTTANNOOR DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENTS/RESPONDENTS/DEFENDANTS:

1. ASHRAF,
S/O. KAKKIDI PUTHIYATTI PARAMBIL MOOSAKKUTTY,
PUTHUPPALLY AMSOM DESOM AND POST, TIRUR TALUK,
MALAPPURAM DISTRICT.
2. KHADEEJA,
W/O. PANACKAL NAZAR, THRIPRANGODE AMSOM,
PERUNTHALLOOR DESOM AND POST, TIRUR TALUK,
MALAPPURAM DISTRICT.
3. AMINA,
D/O. CHEKKUTTY ALIKKANAKATH MOIDEEN,
PACHATTIRI AMSOM AND DESOM, PARIYAPURAM, TIRUR TALUK,
MALAPPURAM DISTRICT.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 02-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- THE TRUE COPY OF THE PLAINT IN O.S.NO. 154/13 OF THE MUNSIF COURT, TIRUR, DATED 29-05-2013.
- EXHIBIT P2- THE TRUE COPY OF THE WRITTEN STATEMENT OF THE 1ST RESPONDENT DATED 04-08-2014 IN O.S.NO. 154/2013 OF THE MUNSIF COURT TIRUR.
- EXHIBIT P3- THE TRUE COPY OF I.A. 568/13 IN O.S.NO. 154/13 OF THE MUNSIF COURT TIRUR DATED 29-05-2015.
- EXHIBIT P4- THE TRUE COPY OF THE COMMISSIONER'S REPORT DATED 10-06-2013 IN O.S.NO. 154/13 OF THE MUNSIF COURT TIRUR.
- EXHIBIT P5- THE TRUE COPY OF THE OBJECTION TO COMMISSION REPORT FILED BY PETITIONER DATED 02-03-15 IN O.S.NO. 154/2013 OF THE MUNSIF COURT TIRUR.
- EXHIBIT P6- THE TRUE COPY OF I.A.NO. 727/15 IN O.S.NO. 154/13 OF MUNSIF COURT TIRUR, DATED 02-03-15.
- EXHIBIT P7- THE TRUE COPY OF THE COUNTER OF THE 1ST RESPONDENT IN I.A.NO. 727/2015 IN O.S.NO. 154/2013 OF THE MUNSIF COURT TIRUR, DATED 27-03-2015.
- EXHIBIT P8- THE TRUE COPY OF THE COUNTER OF THE RESPONDENTS 2 & 3 IN I.A.NO. 727/15 IN O.S.NO. 154/13 OF THE MUNSIF COURT TIRUR, DATED 27-03-2015.
- EXHIBIT P9- THE TRUE COPY OF THE ORDER IN IA NO. 727/2015 IN OS.NO. 154/2013 OF THE MUNSIF COURT TIRUR, DATED 20-05-2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
O.P.(C) No.1264 of 2015
.....

Dated this the 2nd day of June, 2015

J U D G M E N T

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The suit has been filed by the petitioner challenging a partition deed in which he is also a party. It seems that the execution is admitted. At the same time, according to the petitioner, it lacks his free consent as it was hit by fraud exercised on him. In order to show that the property allotted to him through the partition deed is not by way of an equitable partition, he has sought for an appointment of the Commissioner. A Commissioner has also been appointed. By pointing out deficiencies in the commission report, on the ground that the properties have not been properly valued, the petitioner has sought for getting the commission report remitted to the Commissioner for curing the deficiencies. Through Ext.P9 order, the Court below has taken the view that it is the matter that has to be

decided on evidence and in case, any deficiencies come to light, even during evidence or after evidence, the commission report could be remitted to the Commissioner for curing such deficiencies.

2. When such liberty has been granted to the petitioner by the court below through Ext.P9 order, it does not call for any interference at present.

OP(Civil) is disposed of with the aforesaid observations.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/02/06

// True Copy //

PA to Judge