

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

OP(C).No. 196 of 2014 (O)

**ORDER DATED 20-11-2013 IN IA.NO.1913/2013 IN OS 50/2013 OF PRINCIPAL MUNSIF
COURT, PALAKKAD**
.....

PETITIONER(S):

**NARAYANAN, AGED 72 YEARS,
S/O.AYYAPPAN, POONKARUPURAKKAL,
EDATHARA AMSOM DESOM,
PALAKKAD TALUK, PALAKKAD - 678 611**

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENT(S):

**VASU, AGED 60 YEARS,
S/O.PONNU, KUPATHPURA, EDATHARA POST,
PALAKKAD -678 611.**

BY ADV. SRI.A.SHAFAEEK (KAYAMKULAM)

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 02-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 196 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: A TRUE COPY OF THE PLAINT IN OS 50/2013 DATED 1.2.2013.
- EXT.P-2: A TRUE COPY OF THE IA 293/2013 DATED 1.2.2013.
- EXT.P-3: A TRUE COPY OF THE OBJECTION DATED 5.2.2013 FILED BY THE 1ST DEFENDANT/PETITIONER TO IA 293/2013.
- EXT.P-4: A TRUE COPY OF THE PRELIMINARY REPORT OF ADVOCATE COMMISSIONER DATED 6.2.2013.
- EXT.P-5: A TRUE COPY OF THE WRITTEN STATEMENT DATED 13.6.2013 IN OS 50/2013 FILED BY THE PETITIONER/DEFENDANT.
- EXT.P-6: A TRUE COPY OF THE FINAL REPORT DATED 23.7.2013 OF THE ADVOCATE COMMISSIONER.
- EXT.P-7: A TRUE COPY OF THE OBJECTION SUBMITTED BY THE DEFENDANT/ PETITIONER DATED 12.8.2013 AGAINST THE FINAL REPORT.
- EXT.P-8: A TRUE COPY OF THE IA 1913/2013 DATED 16.8.2013 TO SET ASIDE THE COMMISSION REPORT.
- EXT.P-9: A TRUE CERTIFIED COPY OF THE ORDER IN IA 1913/2013 DATED 20.11.2013 OF THE PRINCIPAL MUNSIF COURT, PALAKKAD.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. ABRAHAM MATHEW, J.

O.P.(C)No.196 of 2014

Dated this the 2nd day of December, 2015

J U D G M E N T

Petitioner is the first defendant in OS. 50 of 2013 of Principal Munsiff, Palakkad. He filed Ext.P8 application to set aside the commission report and the plan. By Ext.P9 order the learned Munsiff has dismissed it.

2. Heard.

3. A perusal of the affidavit filed by the petitioner in support of his application to set aside the commission report shows that he attacked correctness of certain facts mentioned in the report. Naturally, the learned Munsiff should have posted the application for enquiry. But that was not done. This alone is sufficient to set aside the impugned order.

In the result this OP is allowed. The impugned order is set aside. The trial court is directed to post the application to set aside the report of the commissioner for enquiry. It shall be done as expeditiously as possible. Both

parties shall be given an opportunity to adduce evidence.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge