

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

OP(C).No. 1376 of 2015 (O)

I.A.NO.1087/2015 IN O.S.NO.246/2014 OF THE MUNSIF'S COURT, CHERTHALA.

PETITIONER :

**MINIMOL, AGED 46 YEARS,
W/O. VIDHYA SANKAR, RESIDING AT ANIZHAM, YESORAM NAGAR,
EROOR SOUTH, NADAMA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.VARGHESE C.KURIAKOSE
SMT.ALLY PAUL THOTTAM**

RESPONDENTS :

- 1. K.P.RAJAGOPAL,
S/O. NANAPPAN PILLAI, MANGALATH, GEETHALAYAM,
CHERTHALA EAST MURI, KOKOTHAMANGALAM VILLAGE,
CHERTHALA TALUK, ALAPPUZHA.**
- 2. K.P. GIREESH KUMAR,
S/O. NANAPPAN PILLAI, MANGALATH, GEETHALAYAM,
CHERTHALA EAST MURI, KOKOTHAMANGALAM VILLAGE,
CHERTHALA TALUK, ALAPPUZHA.**
- 3. HAIMAVATHY AMMA,
W/O. NANAPPAN PILLAI, MANGALATH, GEETHALAYAM,
CHERTHALA EAST MURI, KOKOTHAMANGALAM VILLAGE,
CHERTHALA TALUK, ALAPPUZHA.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 19-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP(C).No. 1376 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: COPY OF THE PLAINT IN OS NO.246/'2014 ON THE FILES OF HONOURABLE MUNSIFF'S COURT, CHERTHALA.

EXHIBIT P2: COPY OF THE WRITTEN STATEMENT IN OS NO.246/2014 ON THE FILES OF THE HONOURABLE MUNSIFF'S COURT, CHERTHALA FILED BY THE 2ND DEFENDANT.

EXHIBIT P3: COPY OF THE PARTITION DEED EXECUTED BY THE SIBLING OF LATE K.P.NANAPPAN PILLAI.

EXHIBIT P4: COPY OF THE I.A.NO.3324/2014 IN OS NO.246/2014 ON THE FILES OF THE HONOURABLE MUNSIFFS COURT, CHERTHALA.

EXHIBIT P5: COPY OF THE I.A.NO.3325/2014 IN O.S.NO.246/2014 ON THE FILES OF THE HONOURABLE MUNSIFFS COURT, CHERTHALA.

EXHIBIT P6: COPY OF THE JUDGMENT IN OPC NO.2022/2014 PASSED BY THIS HONOURABLE COURT.

EXHIBIT P7: COPY OF THE IA NO.1087/2015 BEFORE THE HON'BLE ADDL. MUNSIFFS COURT, CHERTHALA.

EXHIBIT P8: COPY OF THE OBJECTION FILED BY THE 2ND RESPONDENT DATED 1.4.2015.

EXHIBIT P9: COPY OF THE ORDER DATED 10.4.2015 IN I.A.NO.1087/2015 IN OS NO.246/2014 BEFORE THE HON'BLE ADDL. MUNSIFFS COURT, CHERTHALA.

RESPONDENTS' EXHIBITS :

NIL

// True Copy //

P.A. To Judge

DSV/20/6/15

B.KEMAL PASHA, J.

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O.P.(C). No.1376 of 2015

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Dated this the 19th day of June, 2015

J U D G M E N T

It seems that a Commissioner has been appointed with the assistance of a Surveyor on the application filed by the petitioner herein before the court below. The Commissioner has once visited the property also. So far no report has been filed. In the meantime, the petitioner wanted to get some more matters ascertained and reported, for which Exhibit P7 application was filed before the court below. It seems that unnecessarily the said application was stoutly opposed by the respondents, for reasons best known to them. The court below has also denied the request of the petitioner to get those matters noted in Exhibit P7, ascertained. The same is under challenge.

2. Heard the learned counsel for the petitioner.

3. It seems that the Commissioner has not so far filed the report. The application for issuing the Commission was filed by the petitioner and it was on his behalf the Commissioner was appointed. When the report has not been filed so far, there is nothing wrong on the part of the Commissioner in noting down the matters requested for in Exhibit P7 I.A also. Let the Commissioner take note of the matters in Exhibit P7 as well as the counter filed by the respondents and ascertain the matters requested to, and file the report accordingly.

In the result this Original Petition (Civil) is allowed to the extent noted above. The Commissioner shall take note of the matters requested to be ascertained in Exhibit P7. The Commissioner shall take note of the counter filed by the respondents also.

Sd/-

B.KEMAL PASHA
JUDGE