

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

OP(C).No.1485 of 2015 (O)

O.S NO.150/2013 OF THE 1ST ADDITIONAL SUB COURT,KOZHIKODE.

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PETITIONER:

**SANTHOSH KUMAR,AGED 41 YEARS,
S/O.NARAYANAN,RESIDING AT PRASEELA NIVAS,
KOZHIKODE-16,KOTTOOLI AMSOM DESOM,
KOZHIZKODE TALUK AND DISTRICT.**

BY ADV.SRI.NIRMAL.S

RESPONDENT'S:

- 1. MADHU GUPTA,AGED 50 YEARS,W/O.S.M.GUPTA,
METHOR BUILDING AND DEVELOPERS,6/I,
1ST FLOOR,SADOOVAS VANIBA,CENTRE BUILDING,
CANNOUGHT ROAD,BANGALORE-560 002,KARNATAKA STATE.**
- 2. ABDUL RAHSEED,AGED 48 YEARS,
S/O.S.V.HASSAN KUNHI,"AMEEHAR",
NO.6,STATE BANK OFFICERS COLONY,
CHEVAYOOR,NELLIKODE AMSOM,DESOM,
KOZHIKODE TALUK AND DISTRICT.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 29-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

OP(C).No.1485 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1.TRUE COPY OF THE PLAINT IN OS NO.150/2013 DATED 11/7/2011.

EXT.P2.TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE 1ST
RESPONDENT IN OS 150/2013 DATED 9/7/2013.

EXT.P3.TRUE COPY OF THE AFFFIDAVIT IN SUPPORT OF THE IA 2693/2014 AND
THE INTERROGATORIES DATED 9/7/2014.

EXT.P4.TRUE COPY OF THE AFFFIDAVIT IN SUPPORT OF THE IA 269/2014
DATED 9/7/2014.

EXT.P5.TRUE COPY OF THE ORDER IN IA 2693/2014 DATED 26/5/2015.

EXT.P6.THE TRUE COPY OF THE ORDER IN IA 2694/2014 DATED 26/5/2015.

RESPONDENTS EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

B. KEMAL PASHA, J.

.....
O.P.(C) No.1485 of 2015
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Dated this the 29th day of June, 2015

J U D G M E N T

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In a suit seeking the value of a building, the petitioner, who is the plaintiff, wanted to serve an interrogatory to the 1st defendant. The court below has dismissed the IA seeking the serving of interrogatories, through Ext.P5 order. An application seeking the appointment of a Commissioner for valuing the property with the assistance of an expert Engineer is also sought for. The same was dismissed through Ext.P6. Exts.P5 and P6 orders are under challenge.

2. On going through the interrogatories, as is evident from Ext.P3, this Court is satisfied that the same is not worthy to be served and there is absolutely nothing to interfere with Ext.P5 order. Similar is the question with regard to the appointment of the Commissioner also.

3. It seems that the petitioner has sought for a

decree for an amount of ₹10 lakhs. The petitioner has valued the building for the said amount. It is true that the 1st defendant had contended that the said room is a staircase room and the same is not worthy to be valued independently. Whatever it is, the plaintiff has sought for the recovery of an amount of ₹10 lakhs as value of that portion of the building. The parties have not so far adduced evidence. In the course of evidence, if it comes to the opinion of the court below that a Commissioner has to be appointed for valuing the building, the court below shall permit the petitioner to apply once again for the appointment of a Commissioner. Presently, this Court is satisfied that Ext.P5 order also is not liable to be interfered with.

In the result, this O.P.(Civil) is closed with the aforesaid observations.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/29/06

// True Copy //

PA to Judge