

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

OP(C).No. 1552 of 2015 (O)

OS.NO.1642/2007 OF PRINCIPAL MUNSIF COURT, THRISSUR.

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PETITIONER(S)/RESPONDENTS 1 & 2:

1. **AMBILI, AGED 33 YEARS,
D/O. INIKKAL VALSALA GOVINDANKUTTY,
CHETTUPUZHA DESOM,
PULLAZHI VILLAGE, THRISSUR.**
2. **VALSALA, AGED 66 YEARS,
D/O. INIKKAL JANAKIAMMA,
CHETTUPUZHA DESOM,
PULLAZHI VILLAGE, THRISSUR.**

**BY ADVS.SMT.K.P.SANTHI
SRI.R.JAYAKRISHNAN (MUTHUKULAM)**

RESPONDENTS/PETITIONER AND RESPONDENTS 3 TO 7:

1. **GOPINATHA MENON, AGED 72 YEARS,
S/O. JANAKIAMMA , SREE MADHAVA VIHAR,
INIKKAL HOUSE, MUNDATHIKODE VILLAGE,
THRISSUR - 680 601.**
2. **PREMACHANDRAN, S/O.INIKKAL JANAKIAMMA,
CHETTUPUZHA DESOM, PULLAZHI VILLAGE ,
THRISSUR - 680 012.**
3. **GOPALAKRISHNAN, 412, MERIDIAN APARTMENT,
SECTOR 6, NAVI MUMBAI, MAHARASHTRA - 400 008.**
4. **BHANUMATHI, 412, MEREDIAN APARTMENT,
SECTOR 6, NAVI MUMBAI, MAHARASHTRA - 400 008.**
5. **SATHEESAN, AGED 62 YEARS,
S/O.INIKKAL JANAKI AMMA, KURUMBIVALU VILLAGE,
THRISSUR TALUK, NOW RESIDING AT THEKKUMBATT,
SREYAS, KURUMBILAVU, THRISSUR - 680 564.**

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6. SUKUMARAN, AGED 57 YEARS,
S/O.INIKKAL JANAKIAMMA,
GREEN FIELD COLONY,
OLLUKKARA VILLAGE,
THRISSUR TALUK - 680 655.

BY ADV. SRI.K.B.GANGESH

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 12-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1:- TRUE COPY OF IA NO.6878 OF 2014 FILED BEFORE THE MUNSIF COURT, THRISSUR.
- P2:- TRUE COPY OF IA NO.6879 OF 2014 FILED BEFORE THE MUNSIF COURT, THRISSUR.
- P3:- TRUE COPY OF IA NO.6883 OF 2014 FILED BEFORE THE MUNSIF COURT, THRISSUR.
- P4:- TRUE COPY OF THE COMMON ORDER DATED 11/6/2014 IN IA. NOS. 6878,6879 AND 6883 OF 2014 IN IA NO.2226 OF 2012 IN OS NO.1642 OF 2007 OF THE PRINCIPAL MUNSIF COURT, THRISSUR.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

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Dated this the 12th day of October, 2015

J U D G M E N T

Petitioners were the plaintiffs in O.S.No.1642 of 2007 on the file of Munsiff, Thrissur. The suit was for partition. After the preliminary decree was passed final decree application was filed. In the final decree proceedings, according to the petitioners, it was found that the extent of the property is in excess of the extent mentioned in the plaint by 10 cents. The complaint is that in the final decree which has already been passed the excess 10 cents was not taken into account. They filed Ext.P3 application to amend the plaint, the preliminary decree and to stay the final decree proceedings. BY Ext.P4 order the learned Munsiff dismissed it.

2. Heard.

3. The final decree has been challenged in AS.No.37 of 2015 of District Court, Thrissur. If the petitioners have a complaint that the excess extent also should have been partitioned their proper remedy is to agitate the matter in the appellate court. This O.P cannot

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be entertained.

In the result, this O.P is dismissed with the above observations. It is made clear that if the execution proceedings can be proceeded with, the court may do so in spite of the dispute regarding the 10 cents.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge