

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

OP(C).No. 1691 of 2015 (O)

**IA NO. 2387/2013 IN OS 45/2012 FILED BEFORE THE ADDL. MUNSIF'S COURT,
KOLLAM**

PETITIONER :

**FR. JOLLY JOSEPH, AGED 48 YEARS,
S/O. JOSEPH, ROSE DALE, KANJIRACODE, MULAVANA VILLAGE,
KOLLAM TALUK, KOLLAM DISTRICT - 691501.**

BY ADV. FR. JOLLY JOSEPH (PARTY-IN-PERSON)

RESPONDENTS :

- 1. FR. JAMES PUTHENPURA, AGED 72 YEARS,
S/O. MATHAI, FORMERLY VICAR, ST. ANTONY'S CHURCH,
KANJIRACODE, MULAVANA VILLAGE, KOLLAM TALUK - 691501.**
- 2. K.C. JOSE, AGED ABOUT 61 YEARS, S/O. KOCHUKURISU,
FORMERLY TRUSTEE, ST. ANTONY'S CHURCH,
RESIDING AT KUNNUVILA, KANJIRACODE, MULAVANA VILLAGE,
KOLLAM TALUK - 691501.**
- 3. FULGIN, AGED 60 YEARS, S/O. MARIAN, FORMERLY EXECUTIVE
COMMITTEE MEMBER, ST. ANTONY'S CHURCH,
RESIDING AT VIRGIN DALE, PANAYAMCODE, KANJIRACODE,
MULAVANA VILLAGE, KOLLAM TALUK - 691501**
- 4. PIOUS, AGED 70 YEARS, S/O. ANTONY, EXECUTIVE MEMBER,
ST. ANTONY'S CHURCH, RESIDING AT CHARUVILA VEEDU,
KANJIRACODE, MULAVANA VILLAGE, KOLLAM TALUK- 691501.**
- 5. J. JOHNSON AGED 55 YEARS, S/O. JOSEPH CHZHAKADAN,
CONTRACTOR, ST. ANTONY'S CHURCH, RESIDING AT POOKOLY,
KOTTAKKAKAM, KANJIRACODE, MULAVANA VILLAGE,
KOLLAM TALUK - 691501.**
- 6. J. JAYAN, AGED 37 S/O. JOSEPH, ROSE, DALE, KANJIRACODE,
MULAVANA VILLAGE, KOLLAM TALUK - 691501.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 15-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF AMENDED PLAINT IN OS 45/2012.
- P2: COPY OF GENTLEMAN'S AGREEMENT DT 21/5/2008.
- P3: COPY OF WRITTEN STATEMENT.
- P4: COPY OF INJUNCTION ORDER IN IA NO. 304/2012 DT 19/1/2012.
- P5: COPY OF FIRST COMMISSION REPORT DT 01/02/2012.
- P6: COPY OF DOCUMENT ON 22/1/2013 DISPROVING THE OWNERSHIP OF THE DEFENDANTS' CLAIM AS THE OWNER THE B SCHEDULE PATH WAY OF THE PLAINTIFFS.
- P7: COPY OF COMMISSION APPLICATION IA NO. 2387/2013.
- P8: COPY OF THE ORDER DT 29/11/2014 IN IA NO. 2387/2014.
- P9: COPY OF JUDGMENT DT 30/1/2015 IN OPC 2966/2014.
- P10: COLOUR PRINTS/PHOTO DT 12/3/2015 AND 18/3/2015 SHOWING INJUNCTION ORDER VIOLATIONS AFTER THE JUDGMENT OF THIS HONOURABLE COURT.
- P11: COPY OF NON-DISPOSED PETITION IA NO. 5653 FOR CHANGING COMMISSIONER.
- P12: COPY OF ORDER (2ND ORDER) DT 10/4/2015 IN IA NO. 2387/2013.
- P13: COPY OF COMMISSION REPORT IN IA NO. 2387/2013 DT 26/6/2015.
- P14: COPY OF OBJECTION DT 8/7/2015 TO THE COMMISSION REPORT.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

B. KEMAL PASHA, J.

.....
O.P.(C) No. 1691 of 2015
.....

Dated this the 15th day of July, 2015

J U D G M E N T

Heard the petitioner, who appears in person.

2. The petitioner's present grievance is that even though Ext.P14 detailed objection was filed by him before the court below in respect of the Commissioner's report, the same has not been so far considered by the court below. According to him, his persistent requests before the court below for hearing Ext.P14 objection to the Commissioner's report have fell in deaf ears.

In the result, this Original Petition is disposed of by directing the court below to consider Ext.P14 objection to the Commissioner's report and to take appropriate decision

with regard to the acceptability of the Commissioner's report, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment. An opportunity shall be granted to the petitioner to adduce evidence relating to Ext.P14 objection.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge