

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

OP(C).No. 1895 of 2015 (O)

OS 1371/2013 of MUNSIF COURT, CHAVAKKAD

PETITIONERS/DEFENDANTS 1, 2, 4 & 5 :

- 1. SARADHAMONY, AGED 49 YEARS,
W/O. SARATH CHANDRAN, VALLASSERRY, KARAKKAD DESOM
GURUVAYUR AMSOM, CHAVAKKAD TALUK.**
- 2. NIRMALA DEVI RADHAKRISHNAN,
W/O.RADHAKRISHNAN, VALLASSERRY PARAMBU, KARAKKAD DESOM,
GURUVAYUR AMSOM, CHAVAKKAD TALUK.**
- 3. SASIKUMAR
ALIPPRA HOUSE, VALLASSERRY PARAMBU, KARAKKAD DESOM,
GURUVAYUR AMSOM, CHAVAKKAD TALUK.**
- 4. VANAJA MADHAVAN,
W/O.MADHAVAN, ALLIPPARA HOUSE, VALLASSERRY PARAMBU,
KARAKKAD DESOM, GURUVAYUR AMSOM, CHAVAKKAD TALUK.**

**BY ADVS.SRI.BABU CHERUKARA
SMT.ROSAMMA MATHEW
SRI.SEVI VARGHESE
SRI.P.A.SALIM
SRI.ANZAR BASHEER
SRI.P.ANTO THOMAS
SRI.K.S.GIREESAN**

RESPONDENTS/PLAINTIFF & 3RD DEFENDANT :

- 1. APPUKUTTAN
PONNARASSERRY HOUSE, KAKKASSERY DESOM,
BHRAMMAKULAM, CHAVAKKAD TALUK, PIN -680 511.**
- 2. SATHEESAN
S/O.SARESH CHANDRAN, ALLIPPARA HOUSE,
VALLASSERRY PARAMBU, KARAKKAD DESOM,
GURUVAYUR AMSOM, CHAVAKKAD TALUK.PIN - 680 101.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 10-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE PLAINT O.S. 1371/2013 OF THE MUNSIFF'S COURT, CHAVAKKAD DATED 29.8.2013.
- EXT.P-2: TRUE COPY OF THE WRITTEN STATEMENT IN O.S.1371/2013 OF THE MUNSIFF'S COURT, CHAVAKKAD DATED 24.7.2014 FILED BY THE DEFENDANTS 1, 2, 4 & 5.
- EXT.P-3: TRUE COPY OF THE COMMISSION REPORT DATED 15.11.2014 IN I.A. NO.5071/2014 IN O.S.NO.1371 OF 2013 OF THE MUNSIFF'S COURT, CHAVAKKAD.
- EXT.P-3(A): TRUE COPY OF THE SKETCH AND SURVEY MEASUREMENT STATEMENT O.S.NO.1371/13.
- EXT.P-4: TRUE COPY OF THE APPLICATION I.A.NO.3518/2015 FILED BY THE IST RESPONDENT DATED 3.3.2015 IN O.S.NO.1371 OF 2013 DO. DO.
- EXT.P-5: TRUE COPY OF THE COMMISSION REPORT IN O.S.NO.1371/2013.
- EXT.P-5(A): TRUE COPY OF THE SKETCH AND SURVEY MEASUREMENT STATEMENT IN O.S.NO.1371/2013.
- EXT.P-6: TRUE COPY OF PETITION IA.NO.5741 OF 2015 OF CORRECT THE EXHIBIT P5 & P5(A) COMMISSION REPORT AND PLAN DATED 26.6.2015.
- EXT.P-7: TRUE COPY OF THE INTERIM REPORT OF THE COMMISSION REPORT DATED 7.7.2015 IN I.A.NO.5741 OF 2015 IN O.S.NO.1371 OF 2013.
- EXT.P-7(A): TRUE COPY OF THE REPORT OF THE TALUK SURVEYOR DATED 30.5.2015.
- EXT.P-8: TRUE COPY OF THE OBJECTION FILED BY THE 2ND PETITIONER DATED 28.7.2015

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

B. KEMAL PASHA, J.

.....
O.P.(C) No. 1895 of 2015
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Dated this the 10th day of August, 2015

J U D G M E N T

A Commissioner was deputed by the court below. The Commissioner, with the assistance of the Surveyor, visited the property, executed the Commissioner's warrant and prepared the plan. The report, along with the plan, were submitted before the court below. It was traced out that the extent of the property shown as item No.B in the plaint was not correctly calculated. The same was brought to the notice of the Commissioner. The Commissioner had contacted the Surveyor. Thereafter, the Surveyor has furnished Ext.P7(a) report, which the Commissioner has produced before the

court below, along with Ext.P7 additional report.

2. All the said measurements of the plaint B schedule item are correctly shown in the plaint and the same were not varied through the supplementary report. At the same time, what was done by the Surveyor is to recalculate the extent on the basis of such measurements of the property. On a recalculation the extent was found to be 15.34 cents instead of the extent of 16.34 cents. Through Ext.P7(a) the Surveyor has reported that the same had occurred due to the mistake in the calculation. The same has been reported by the Commissioner through Ext.P7, and by producing Ext.P7(a).

3. On hearing the learned counsel for the petitioner and on verifying the records, it is revealed that the measurements of the property have not been changed, and the correction of the mistake in calculation can only be justifiable. Matters being so, this Court does not find any illegality or irregularity either in Ext.P7 or Ext.P7(a) and

hence, there is absolutely nothing to be interfere with the order under challenge.

In the result, this Original Petition is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge