

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

OP(C).No. 1925 of 2015 (O)

(FDIA NO.1859/1996 IN OS.NO.613/88 OF MUNSIFF COURT, CHAVAKKAD)

PETITIONER(S)/REVIEW PETITIONERS/RESPONDENTS 5,6 AND 7 :

1. KOMALA,
W/O.NJATTUKETTY THARAYIL RAMAN,
NJATTUKETTY THARAYIL HOUSE, VALAPPAD VILLAGE,
PALLIPRAM DESOM (P.O), KARAYAMUTTOM,
THRISSUR DISTRICT - 680 567.
2. UDAYAN,
S/O.NJATTUKETTY THARAYIL RAMAN,
NJATTUKETTY THARAYIL HOUSE, VALAPPAD VILLAGE,
PALLIPRAM DESOM, (P.O), KARAYAMUTTOM,
THRISSUR DISTRICT - 680 567.
3. SHEELA,
D/O.NJATTUKETTY THARAYIL RAMAN,
NJATTUKETTY THARAYIL HOUSE, VALAPPAD VILLAGE,
PALLIPRAM DESOM, (P.O), KARAYAMUTTOM,
THRISSUR DISTRICT - 680 567.

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

RESPONDENT(S)/RESPONDENTS/PETITIONERS :

1. SARASWATHI,
W/O.THARAYIL NARAYANAN, VALAPPAD VILLAGE,
PALLIPRAM DESOM, (P.O), KARAYAMUTTOM,
THRISSUR DISTRICT - 680 567.
2. DEEPA,
W/O.KARAYIL THEKKOOTT JYOTHIBASU,
KARAYIL THEKKOOTT HOUSE,
SREENARAYANAPURAM KODUNGALLUR TALUK,
THRISSUR DISTRICT -680 567.
3. BINI, W/O.PUTHANPURAYIL RAVEENDRAN,
PUTHENPURAYILHOUSE,VALAPPAD (P.O),
(P.O) KARAYAMUTTOM, THRISSUR DISTRICT - 680 567.

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4. TINI,
W/O.ERANEZHATH RAJESH, ERANEZHATH HOUSE,
THALIKKULAM (P.O), CHAVAKKAD TALUK,
THRISSUR DISTRICT - 680 567.
5. REEJA,
S/O.NJATTUKETTY THARAYIL NARAYANAN,
NJATTUKETTY THARAYIL HOUSE,
VALAPPAD VILLAGE, PALLIPRAM DESOM,
(PO) KARAYAMUTTOM, THRISSUR DISTRICT -680 567.

R1 TO R5 BY ADVS. SRI.K.C.ELDHO
SRI.JIJO THOMAS
SRI.ANEESH JAMES

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE DECREE IN OS 613/88 DATED 12.10.1990**
- EXT.P-2: TRUE COPY OF THE COMMISSION REPORT DATED 1.7.2014 IN IA
1859/1996 IN OS 613/1988**
- EXT.P-3: TRUE COPY OF THE ORDER IN IA 1859/96 IN OS 613/96 DATED 3.7.2014**
- EXT.P-4: TRUE COPY OF THE REVIEW PETITION AS RP NO.307/2015 WITH A
PETITION TO CONDONE THE DELAY AS IA 306/2015**
- EXT.P-5: TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENTS IN IA
306/2015 IN IA 1859/96 IN OS 613/88 DATED 25.2.2014**
- EXT.P-6: TRUE COPY OF THE ORDER DATED 6.7.2015 IN REVIEW PETITION
NO.307/2015 IN OS 613/88.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.S.TO JUDGE

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B. KEMAL PASHA, J.

.....
O.P.(C) No.1925 of 2015

.....
Dated this the 11th day of August, 2015

J U D G M E N T

A decree for partition was passed. The suit is of the year 1988. Still the property has not been divided by metes and bounds. Obstructions after obstructions are being created by the parties.

2. The extent of the decree schedule property is two acres and eighty cents within the boundaries prescribed in the decree schedule. When survey was carried out it was found that the actual extent of the property within the boundaries is three acres four cents, i.e. there is an excess of twenty four cents. Resurvey was also finalised by considering the extent within the boundaries as three acres

and four cents.

3. The court below has taken the matter lightly and has passed a one sentence order by directing the Commissioner to carry out division by considering the extent as three acres and four cents. As rightly pointed out by the learned counsel for the petitioners, some times, in future a problem may arise. The only way out at present is to direct the Commissioner and the Surveyor to locate and plot out two acres and eighty cents of property described in the decree schedule and to carry out a division in accordance with the decree. As the said twenty four cents, which is also within the boundaries prescribed in the decree, also belongs to all the sharers, they are entitled to get shares out of it. The excess extent of twenty four cents coming within the boundaries has also to be divided separately by metes and bounds and the Commissioner shall carry out a division of that twenty four cents of property separately.

4. In view of all the above, this Court is hopeful that

the matter may end here. The parties shall co-operate with the division as aforesaid, without making any untenable demands in future. The court below shall expedite the proceedings and shall dispose of the final decree application, as expeditiously as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

The Original Petition is disposed of as above.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge