

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

OP(C) .No. 2017 of 2015 (O)

(ARISING OUT OF FDIA NO.1362 OF 2011 IN O.S.O.NO.179 OF 2001 ON
THE FILE OF THE PRINCIPAL SUB COURT, PALAKKAD)

PETITIONER(S) :

PREMINI @ PREMA AGED 55 YEARS,
W/O. RAVINDRAN, DOOR NO.95, (OLD NO.88),
RADHA NAGAR MAIN ROAD, CHROME PET, CHENNAI-600 044.

BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE

RESPONDENT(S) :

1. RAJANISREE RAJENDRAN, AGED 45 YEARS,
D/O. RAJENDRAN, SREE KAILAS, AYYAPPANKAVU GRAMAM,
KOTTAYI P.O., PALAKKAD-678 572.

2. Y.BHAGYANATH, AGED 75 YEARS,
H/O. LATE RADHA, NO.17, LIC FLATS,
MADHAVAN NAIR ROAD, MAHALINGAPURAM, CHENNAI-600 034.

3. B.N.SANKAR , AGED 51 YEARS
S/O. LATE RADHA, NO.17, LIC FLATS,
MADHAVAN NAIR ROAD, MAHALINGHAPURAM, CHENNAI-600 034.

4. VIDHYA SANKAR , AGED 49 YEARS,
D/O. LATE RADHA, NO.17, LIC FLATS,
MADHAVAN NAIR ROAD, MAHALINGHAPURAM, CHENNAI-600 034.

5. RAJENDRAN K.V. , AGED 70 YEARS,
H/O. LATE PADMA, KALLAYIL VEEDU, DURGA VILLAGE,
CHITTUR P.O., PALAKKAD-678 101.

6. RAJEEV , AGED 45 YEARS,
S/O. LATE PADMA, KALLAYIL VEEDU, DURGA VILLAGE,
CHITTUR P.O., PALAKKAD-678 101.

7. RAJKAMAL, AGED 43 YEARS,
S/O. LATE PADMA, KALLAYIL VEEDU, DURGA VILLAGE,
CHITTUR P.O., PALAKKAD-678 101.

8. RAJEEV SREERANJINI SUNIL , AGED 41 YEARS,
D/O. LATE PADMA, C/O. KRISHNAN, MAPRANATH HOUSE
OPP. HOLY FAMILY SCHOOL, PULAKKATTUKARA P.O.
CHITTISSERY, THRISSUR-680 301.

9. PARTHASARATHY
18/32, 28TH STREET, T.G.NAGAR,
CHENNAI-600 061.

R1 BY ADV. SRI.SAJAN VARGHEESE K.
R1 BY ADV. SRI.LIJU. M.P
R9 BY ADV. SRI.RAJESH SIVARAMANKUTTY

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 19-10-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C) .No. 2017 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 : COPY OF THE INTERIM REPORT DTD.22.7.2015 IN FDIA NO.1362
OF 2011 IN OS NO.179 OF 2001 ON THE FILE OF THE PRINCIPLE
SUB COURT, PALAKKAD.

P2 : COPY OF THE ADVERTISEMENT PUBLISHED IN THE NEW SUNDAY
EXPRESS DAILY, CHENNAI EDITION ON 2.8.2015.

P3 : COPY OF THE AUCTION PROCEEDINGS DTD.11.8.2015 FILED BY THE
ADVOCATE COMMISSIONER.

RESPONDENT(S) ' EXHIBITS:

NIL

TRUE COPY

PA TO JUDGE

K.ABRAHAM MATHEW, J.

O.P.(C). No.2017 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

Petitioner was the defendant in O.S.No.179 of 2001 which was for partition of immovable properties situated in Kerala as well as Tamilnadu. A preliminary decree for partition was passed. In the final decree proceedings it was found that physical division of two items of properties was not possible. So the court ordered sale of the properties by public auction to which none of the parties had any objection. A commissioner was appointed for the sale. The sale was advertised in newspapers both in Kerala and Chennai. Both properties were sold. The dispute is with regard to the sale of the second item of property situated in Kancheepuram District. The commissioner accepted the whole sale price from the 9th respondent, who was the highest bidder. The sale has not been confirmed by the court. The grievance of the petitioner is that the advertisement was given on 2.8.2015 and the property was sold on 10.8.2015 and the full description of the property was not given in the advertisement, which has affected the price of the property.

2. Heard.

3. There is no doubt that the property is situated in a commercially important locality in Kancheepuram District in the outskirts of Chennai. A perusal of Ext.P2 advertisement shows that the particulars

given in the advertisement were not sufficient for the intending purchasers to know about the importance of the locality. The boundaries of the property were not given. The sale took place on the 8th day of the advertisement. By no such imagination it can be said that it was reasonable. I am compelled to hold that the above two facts have materially affected the sale of the property. That apart, the commissioner should have notified the intending purchasers that the sale was subject to confirmation by the court. For this reason also, I am inclined to hold that the sale of the second item of property cannot be approved.

In the result, this O.P is allowed. The sale of the second item of property in favour of the 9th respondent is set aside. The amount deposited by him shall be refunded to him forthwith. The court shall ensure that in the advertisement of the sale of the second item of property its full description including the boundaries and the importance of the locality in which it is situated are given. It shall be mentioned that the sale is subject to the confirmation by the court. There shall be at least a gap of 30 days between the advertisement and the sale.

K.ABRAHAM MATHEW
JUDGE

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