

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

OP(C).No. 2031 of 2015 (O)

**AGAINST THE ORDER/JUDGMENT IN O.S.NO.828/2003 ON THE FILES OF
I ADDITIONAL MUNSIF COURT, ERNAKULAM**

PETITIONER(S):

**THOMAS DEVASSIA AGED 87 YEARS
S/O.LATE DEVASSIA, KANJIRAMTHANATH HOUSE
KARIPPAI ROAD, NORTH KALAMASSERY P.O
ERNAKULAM DISTRICT.**

BY ADV. SRI.JESWIN P.VARGHESE

RESPONDENT(S):

- 1. KALAMASSERY MUNICIPALITY
MUNICIPAL OFFICE, KALAMASSERY P.O, ERNAKULAM DISTRICT
683 104, REPRESENTED BY ITS SECRETARY.**
- 2. THE DISTRICT COLLECTOR
CIVIL STATION, ERNAKULAM, COCHIN 24.**
- 3. RABIA
W/O.ASSAINAR, THETTAYIL HOUSE, KARIPPAI ROAD
NORTH KALAMASSERY P.O, ERNAKULAM 683 104.**
- 4. NOORJAHAN
W/O.IBRAHIM, THETTAYIL HOUSE, KARIPPAI ROAD
NORTH KALAMASSERY P.O, ERNAKULAM 683 104.**

**BY ADV.SRI.E.M.ABDUL KHADER, GOVERNMENT PLEADER
BY ADV.SRI.M.K.ABOOBACKER,SC KALAMASSERY MUNICIPALITY**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 07-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. A TRUE COPY OF NOTICE NO.F.1824/03-L.DIS ISSUED BY REVENUE
DIVISIONAL OFFICER FORT COCHIN DATED 4.4.2003.**

**EXHIBIT P2. A TRUE COPY OF COMMISSION APPLICATION REGISTERED AS IA
8992/2009 IN OS 828/2003 DATED 10.12.2009.**

**EXHIBIT P3. A TRUE COPY OF THE INTERIM REPORT SUBMITTED BY ADVOCATE
COMMISSIONER DATED 25.10.14.**

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PATO JUDGE

K. ABRAHAM MATHEW, J.

O.P.(C). No.2031 of 2015

Dated this the 7th day of September, 2015

J U D G M E N T

The petitioner is the third defendant in O.S.No.828 of 2013 on the files of the First Additional Munsiff's Court, Ernakulam. The first respondent Municipality filed a commission application. It is necessary to measure the property on the basis of the survey plan. It is submitted that as the portion of the property is involved in the suit is water logged it is difficult to conduct survey. It may be difficult but it is not impossible. Both parties agree that if a direction is issued to the second respondent, District Collector the equipments necessary to measure the properties will be made available. I am satisfied that the submission is reasonable. In the result, this O.P(C) is disposed of as follows:-

Within two months the second respondent, District Collector will take steps to get the property measured by the Taluk Surveyor, for which necessary equipments shall

be made available to him by the State. The Munsiff may issue appropriate directions to the surveyor, who shall be made a joint commissioner along with the Advocate commissioner. The measurement shall be completed and the report filed on or before 31.12.2015.

sd/-
K.ABRAHAM MATHEW,
JUDGE

R.AV

//TRUE COPY//

PA TO JUDGE