

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

OP(C).No. 2102 of 2015 (O)

O.S.NO.103 OF 2013 OF THE MUNSIF COURT, PERINTHALMANNA

PETITIONER(S) :

**ANTONY, AGED 54 YEARS,
S/O. FRANCHI, PUTHANPARAMBIL HOUSE, ANGADIPURAM (P.O),
PERINTHALMANNA.**

BY ADV. SRI.K.DILIP

RESPONDENT(S) :

- 1. JOBY THOMAS, AGED 24 YEARS,
S/O. THOMAS (LATE), PUTHUPARAMBIL HOUSE,
PALACHODE (P.O), CHEMMALASSERI, PULAMANTHOLE,
PERINTHALMANNA, PIN- 679 338.**
- 2. JOHNY THOMAS, AGED 21 YEARS,
S/O.THOMAS (LATE), PUTHUPARAMBIL HOUSE, PALACHODE (P.O),
CHEMMALASSERI, PULAMANTHOLE, PERINTHALAMANNA, PIN- 679 338.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 31-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

OP(C).No. 2102 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: A TRUE COPY OF THE PLAINT IN O.S.NO.103/2013 ON THE FILE OF MUNSIFF COURT, PERINTHALMANNA DATED 04/07/2013.**
- P2: A TRUE COPY OF THE WRITTEN STATEMENT FILED IN O.S.NO.103/13 ON THE FILE OF MUNSIFF COURT, PERINTHALMANNA DATED 19/08/2013.**
- P3: A TRUE COPY OF THE COMMISSION REPORT AND SKETCH DATED 29/07/2013.**
- P4: A TRUE COPY OF THE COMMISSION REPORT AND SKETCH DATED 29/07/2013.**
- P5: A TRUE COPY OF THE COMMISSION REPORT AND SKETCH DATED 01/12/2014.**
- P6: A TRUE COPY OF THE I.A.NO. 779/2015 DATED 14/07/2015.**
- P7: A TRUE COPY OF THE ORDER IN I.A.NO.779/2015 DATED 10/08/2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J.

.....
O.P.(C) No. 2102 of 2015 (O)

.....
Dated this the 31st day of August, 2015

JUDGMENT

Petitioner is the plaintiff in O.S.No.103 of 2013 on the file of the Munsiff Court, Perinthalmanna. The petitioner has approached this Court aggrieved by the rejection of his application under Rule 120 of the Civil Rules of Practice.

2. Admittedly the matter is listed and the trial is going on. The petitioner wants to summon the ledger pertains to a Will bearing No.63 of 2012 of SRO Kolathoor. This document sought to be summoned for showing certain manipulation of the defendant in the suit. The court below dismissed the application.

3. The learned counsel points out that the court below proceeded as if the petitioner summoned the Will from the registrars office. In fact what is sought is only a production of ledger pertains to the Will.

4. The question to be considered is whether the dismissal of the application would cause any prejudice to the petitioner. There

is nothing to indicate at this stage serious prejudice has been caused to the petitioner. The petitioner has a remedy against the order along with the decree and the judgment.

5. In such circumstances, this Court is not inclined to invoke the extraordinary remedy under Article 227 of the Constitution of India. The petitioner is at liberty to challenge the order along with the decree and judgment in the matter, if he is finally aggrieved.

With these observations, this original petition is disposed of.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

AMV/01/09/