

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW**

**TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937**

**OP(C).No. 2104 of 2015 (O)**

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AGAINST THE ORDER/JUDGMENT IN OS 553/2010 of MUNSIF'S COURT,  
WADAKKANCHERY  
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**PETITIONER(S):-:**

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- 1. THANKAM AGED 56 YEARS  
D/O.PUTHUKULANGARA LAKSHMI AMMA  
CHIRAMANANGAD VILLAGE DESOM, TALAPPILLY TALUK.**
  - 2. SREEDEVI  
D/O.PUTHUKULANGARA LAKSHMI AMMA  
CHIRAMANANGAD VILLAGE DESOM, TALAPPILLY TALUK.**

**BY ADV. SRI.G.SREEKUMAR (CHELUR)**

**RESPONDENT(S):-:**

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- 1. GOPINATHAN  
S/O.KULANCHERY MEENAKSHIAMMA, CHIRAMANANGAD VILLAGE  
MARATHAMKODE KIDANGOOR DESOM, TALAPPILLY TALUK  
PIN - 680 001.**
  - 2. SINDHU  
D/O.PUTHUKULANGARA LAKSHMI AMMA  
CHIRAMANANGAD VILLAGE DESOM  
TALAPPILLY TALUK - 680 001.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 08-09-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXHIBIT P1. A TRUE COPY OF THE PLAINT IN OS NO.553 OF 2010 DATED 19.11.2010 ON THE FILE OF THE MUNSIFF COURT, WADAKKANCHERY.**

**EXHIBIT P2. A TRUE COPY OF THE COMMISSIONER'S REPORT AND PLAN DATED 16.07.2012 IN EXT.P1 SUIT ON THE FILE OF THE MUNSIFF COURT, WADAKKANCHERY.**

**EXHIBIT P3. A TRUE COPY OF IA NO.2721 OF 2012 IN EXT.P1 SUIT DATED 12.11.2012.**

**EXHIBIT P4. A TRUE COPY OF THE OBJECTIONS SUBMITTED BY THE FIRST RESPONDENT TO EXT.P3 DATED 01.02.2013.**

**EXHIBIT P5. A TRUE COPY OF THE ORDER PASSED IN IA NO.2721 OF 2012 IN OS NO.553 OF 2010 DATED 27.11.2014 ON THE FILE OF THE MUNSIFF COURT, WADAKKANCHERY.**

**RESPONDENT'S EXHIBITS:                      NIL**  
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R.AV

//TRUE COPY//

PA TO JUDGE

**K. ABRAHAM MATHEW, J.**

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**O.P.(C). No.2104 of 2015**  
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**Dated this the 8<sup>th</sup> day of September, 2015**

**J U D G M E N T**

Petitioners are the first and second defendants in O.S.No.553 of 2010 on the file of Munsiff, Wadakkanchery. The commissioner appointed by the court filed Ext.P2 report. The petitioners filed an application, I.A.No.2721 of 2012, to remit the report. By Ext.P5 order the learned Munsiff allowed the application in part. This is assailed in this O.P.

2. Heard.

3. The complaint is that the learned Munsiff did not take notice of the all objections raised by the petitioners. The scope of an application for remitting a report and for setting aside a report is different. The only prayer in the application filed by the petitioners was to remit the report. That may be the reason why the learned Munsiff did not post the application for enquiry. So I am satisfied that there is no irregularity in the order passed by the learned Munsiff. But at the same time, if the

petitioners want to get the report set aside, they may file a proper application for that purpose.

In the result, this O.P is disposed of with a direction to the petitioners to file an application to set aside the report if they are so advised and in that case the learned Munsiff shall give them an opportunity to adduce evidence in support of their allegations.

sd/-  
**K.ABRAHAM MATHEW,**  
**JUDGE**

R.AV

//TRUE COPY//

PA TO JUDGE