

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

OP(C).No. 2108 of 2015 (O)

OS 93/2011 OF MUNSIFF COURT, NORTH PARAVUR.
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PETITIONER:

**SMT.SHEELA GEORGE, AGED 53 YEARS,
W/O.SRI. PETTAH JOY @ GEORGE, PETTAH HOUSE,
VARAPUZHA VILLAGE, PARAVUR TALUK,
ERNAKULAM DISTRICT, PIN-683 517.**

**BY ADVS.SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SRI.RADHIKA RAJASEKHARAN P.
SMT.ANILA PETER
SRI.J.VIVEK GEORGE**

RESPONDENT:

**SMT.MARY ANTONY, AGED 67 YEARS,
W/O LATE MR. ANTONY, KANAPPILLY HOUSE,
VARAPUZHA VILLAGE, PARAVUR TALUK,
ERNAKULAM DISTRICT, PIN-683 517.**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 16-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

OP(C).No. 2108 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPY OF THE PLAINT IN OS NO. 93/11 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, NORTH PARUR DT. 16/2/11.
- EXT.P2: TRUE COPY OF WRITTEN STATEMENT FILED BY PETITIONER IN OS NO. 93/11 DT. 23/7/11.
- EXT.P3: TRUE COPY OF COMMISSION APPLICATION NUMBERED AS IA NO. 1555/12 N OS NO 93/11 ON THE FILES OF THE HON'BLE MUNSIFF'S COURT, N PARUR DT. 10/10/12.
- EXT.P4: TRUE COPY OF THE ORDER IN IA NO. 1555/12 IN OS NO. 93/11 OF THE HON'BLE MUNSIFF'S COURT, N PARUR, DT. 25/7/15.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. ABRAHAM MATHEW, J.

O.P.(C)No.2108 of 2015

Dated this the 16th day of September, 2015

J U D G M E N T

The petitioner applied for deputing a commissioner to measure the property involved in the suit on the basis of survey plan. For the reason that he did not produce a panel of surveyors, the learned Munsiff dismissed that application. The correctness of the order is challenged.

2. If the petitioner failed to produce a panel of surveyors the learned Munsiff should have appointed taluk surveyor. It was not proper for him to dismiss the commission application. So Ext.P4 order is liable to be set aside. The learned counsel undertakes to submit a panel of surveyors.

In the result, this O.P is allowed. Ext.P4 order is set aside. The learned Munsiff is directed to appoint taluk surveyor as joint commissioner.

sd/-

**K. ABRAHAM MATHEW
JUDGE**

R.AV

//True Copy//

PA to Judge