

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

OP(C).No. 4185 of 2011 (O)

OS. NO.620/2008 OF SUB COURT, PALAKKAD.

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PETITIONER:

**INDIRAKUMARI, W/O.RADHAKRISHNAN,
RESHMA NIVAS, 16/639(3), CANALVARAMBA,
KUNNATHURMEDU, PALAKKAD DISTRICT.**

**BY ADVS.SRI.O.RAMACHANDRAN NAMBIAR,
SRI.GEEN T.MATHEW.**

RESPONDENT(S):

- 1. PARUKUTTY AMMA, W/O.LATE KUNJU ASHARY,
PUSHPALAYAM, MANNARKADAU PARAMBIL,
MANAPPULIKKAVU, YAKKARA EAST,
KARINGARAPPULLY AMSOM AND DESOM,
PALAKKAD TALUK AND DISTRICT- 678 001.**
- 2. PRABHAKARAN, S/O.LATE KUNJU ASHARY,
PUSHPALAYAM, MANNARKADAU PARAMBIL,
MANAPPULIKKAVU, YAKKARA EAST,
KARINGARAPPULLY AMSOM AND DESOM,
PALAKKAD TALUK AND DISTRICT- 678 001.**
- 3. SREEDHARAN, S/O.LATE KUNJU ASHARY,
PUSHPALAYAM, MANNARKADAU PARAMBIL,
MANAPPULIKKAVU, YAKKARA EAST,
KARINGARAPPULLY AMSOM AND DESOM,
PALAKKAD TALUK AND DISTRICT- 678 001.**
- 4. HARIDAS, S/O.LATE KUNJU ASHARY,
PUSHPALAYAM, MANNARKADAU PARAMBIL,
MANAPPULIKKAVU, YAKKARA EAST,
KARINGARAPPULLY AMSOM AND DESOM,
PALAKKAD TALUK AND DISTRICT- 678 001.**
- 5. PUSHPALATHA, W/O.SUBRAMANIAM,
THULASI NIVAS, KUNNEKKADU, PUDUSSERRY AMSOM,
PALAKKAD TALUK AND DISTRICT-678 001.**

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6. MOHANDAS, S/O.LATE KUNJU ASHARY,
PUSHPALAYAM, MANNARKADAU PARAMBIL,
MANAPPULIKKAVU, YAKKARA EAST,
KARINGARAPPULLY AMSOM AND DESOM,
PALAKKAD TALUK AND DISTRICT- 678 001.
7. SHOBHANA, D/O.LATE KUNJU ASHARY,
VEPPIYOTTIL HOUSE, KUNNUTHARA,
KALLOOPADAM-680 001, PAZHAYANNUR,
THRISSUR DISTRICT.
8. PARVATHI, D/O.LATE KUNJU ASHARY,
W/O.LATE GANGADHARAN, PUSHPALAYAM,
MANNARKADAU PARAMBIL, MANAPPULIKKAVU,
YAKKARA EAST, KARINGARAPPULLY AMSOM AND DESOM,
PALAKKAD TALUK AND DISTRICT- 678 001.

R1 TO R4 BY ADVS. SRI.P.R.VENKETESH,
SRI.P.R.RAJA.
R8 BY ADV. SRI.BABU SHANKAR.

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 18-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

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APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE PLAINT IN O.S. NO.620/2008 BEFORE THE
SUB COURT, PALAKKAD.
- EXT.P2 COPY OF THE WRITTEN STATEMENT IN O.S. NO.620/2008
BEFORE THE SUB COURT, PALAKKAD.
- EXT.P3 COPY OF THE PETITION IN I.A. NO.3540/2011 IN O.S. NO.620/2008
BEFORE THE SUB COURT, PALAKKAD.
- EXT.P4 COPY OF THE COUNTER IN I.A. NO.3540/2011 IN O.S. NO.620/2008
BEFORE THE SUB COURT, PALAKKAD.
- EXT.P5 COPY OF THE ORDER DATED 08/12/2011 IN I.A. NO.3540/2011
IN O.S. NO.620/2008 BEFORE THE SUB COURT, PALAKKAD.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P. BHAVADASAN, J.

O.P.(C). No. 4185 of 2011

Dated this the 18th day of February, 2015.

JUDGMENT

Strange are the ways of disposing of the interlocutory application.

2. Plaintiff laid the suit for partition and the defendants replied disputing the identity of the property. That compelled the plaintiff to move an application for appointment of a Commissioner. By Ext. P5 order that application was dismissed.

3. One fails to understand the conclusion drawn by the court below that issuance of a commission is not necessary in disposing of the suit. Since there is a dispute regarding identity of the property, identification of the property is absolutely necessary. Therefore, necessarily a Commissioner has to be appointed.

In the result, this Original Petition is allowed, the impugned order is set aside and the court below is directed to appoint a Commissioner to identify the property.

P. BHAVADASAN,
JUDGE

sb.