

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

OP(C).No. 2414 of 2015 (O)

**I.A. NOS.3543/2012, 1630/2013 & 1631/2013 IN I.A.1528/2011 IN O.S.66/2007 OF
SUB COURT, OTTAPALAM.**

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PETITIONER(S):

**RADHA, W/O.LATE RAGHAVAN NAIR,
AGED 75 YEARS, 'SREEHARI',
ESWARAMANGALAM POST, PONNANI TALUK,
MALAPPURAM DISTRICT, PIN-679 577.**

BY ADV. SRI.R.SREEHARI.

RESPONDENT(S):

**MOHANAN, S/O.SAROJINI AMMA,
AGED 56 YEARS, SNEHASADAN,
NEDUNGOTTUR, MUNDAMUKHA,
SORNUR, OTTAPALAM TALUK, PIN-679 121.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 08-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE JUDGMENT IN O.S. NO.66/2007 OF SUB COURT, OTTAPALAM DATED 22/01/2011.
- EXT.P2 COPY OF THE DECREE IN O.S. NO.66/2007 OF SUB COURT, OTTAPALAM DATED 22/01/2011.
- EXT.P3 COPY OF THE REPORT FILED IN I.A. NO.1528/2011 IN O.S. NO.66/2007 BY THE COMMISSIONER DATED 28/11/2012.
- EXT.P4 COPY OF THE PLANS FILED ALONG WITH EXT.P3 REPORT.
- EXT.P5 AFFIDAVIT FILED IN SUPPORT OF I.A.158/2013 IN I.A.1528/2011 IN O.S.66/2007 OF SUB COURT, OTTAPALAM.
- EXT.P6 COPY OF THE OBJECTION FILED BY THE PETITIONER IN I.A.1528/2011 IN O.S.66/2007 OF SUB COURT, OTTAPALAM DATED 17/12/2012.
- EXT.P7 COPY OF THE AFFIDAVIT FILED IN SUPPORT OF I.A.3543/2012 IN I.A.1528/2011 IN O.S.66/2007 OF SUB COURT, OTTAPALAM DATED 17/12/2012.
- EXT.P8 COPY OF THE OBJECTION FILED BY THE RESPONDENT IN I.A.3543/2012 IN I.A.1528/2011 IN O.S.66/2007 OF SUB COURT, OTTAPALAM DATED 28/06/2013.
- EXT.P9 COPY OF THE COMMON ORDER PASSED IN I.A. NOS.3543/2012, 1630/2013 & 1631/2013 IN I.A.1528/2011 IN O.S.66/2007 DATED 05/08/2015 OF THE SUB COURT, OTTAPALAM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K.ABRAHAM MATHEW J.

O.P.(C)No.2414 of 2015

Dated this the 8th day of October, 2015

JUDGMENT

Petitioner is the 9th defendant in O.S.No.66 of 2007 on the file of Sub Judge, Ottappalam. The suit is for partition. A preliminary decree has been passed. The petitioner is entitled to 1/19 share. In the final decree proceedings a commissioner was deputed for partition of the properties. He has now filed a report. The petitioner filed I.A.No.3543 of 2012 to remit the report. She also paid court fees for separation of her share. Some other parties also filed application to remit the report. By Ext P9 common order the learned Sub Judge dismissed all the applications. The petitioner is aggrieved by it.

2. Heard.

3. Now the case stands posted for the examination of the commissioner. If the court finds that the division is inequitable or not made by mets and bounds necessarily it has to set aside the report. In fact, the court should have waited till the examination of the commissioner to decide on the applications filed by the petitioner and others. But I do not propose to set aside the impugned order. It is sufficient to direct the Sub Judge that if the commission report is not acceptable, the points urged by the petitioner and others also shall be taken into consideration and they

O.P.(C)No.2414 of 2015 2

shall be allowed to claim separation of their shares on payment of court fees.

In the result, this Original petition is disposed of with the above direction.

Sd/-
K.ABRAHAM MATHEW
JUDGE

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/True copy/

P.S.to Judge