

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

OP(C).No. 2617 of 2015 (O)

**(AGAINST ORDER DATED 15.9.2015 OF ADDITIONAL MUNSIF COURT,
ALAPPUZHA IN IA.NO.3439/2015 IN OS.NO.228/2012)**

PETITIONER(S)/ADL. DEFENDANTS 5 AND 6:

**1. REJI KUMAR AGED 43 YEARS
S/O. DHARMAJAN, KATTUNGAL HOUSE, KOMALAPURAM VILLAGE
ARYAD PANCHAYATH, AVALOOKKUNU P.O., ALAPUZHA.**

**2. REMYA
W/O. REJI KUMAR, KATTUNGAL HOUSE, KOMALAPURAM VILLAGE
ARYAD PANCHAYATH, AVALOOKKUNU P.O., ALAPUZHA.**

**BY ADVS.SRI.LINDONS C.DAVIS
SMT.E.U.DHANYA**

RESPONDENT(S)/PETITIONER/DEFENDANTS 1 TO 4 AND ADL DEFENDANT 7:

**1. SATHI DHANAPALAN
W/O. DHANAPALAN, THARAYIL HOUSE, SOUTH ARYAD MURI
KOMALAPURAM VILLAGE, ARYAD PANCHAYATH, ALAPUZHA.**

**2. ARYAD GRAMA PANCHAYATH
KOMALAPURAM, AVALOOKKUNNU P.O., ALAPUZHA
REPRESENTED BY ITS SECRETARY.**

**3. KUSAN
CONVENER, BENEFICIARY COMMITTEE, KUTTIDAYIL HOUSE
KOMALAPURAM VILLAGE, ARYAD PANCHAYATH
AVALOOKKUNNU P.O., ALAPUZHA.**

**4. SULOCHANA
W/O. DHARMAJAN, KATTUNGAL HOUSE, KOMALAPURAM VILLAGE
ARYAD PANCHAYATH, AVALOOKKUNNU P.O., ALAPUZHA.**

**5. KISHORE DAS
PUTHEN VEEDU, KOMALAPURAM VILLAGE, ARYAD PANCHAYATH
AVALOOKKUNNU P.O. ALAPUZHA.**

**6. P.V.DAS
PUTHEN VEEDU, KOMALAPURAM VILLAGE, ARYAD PANCHAYATH
AVALOOKKUNNU P.O. ALAPUZHA.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 30-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT.P1:-TRUE COPY OF THE PLAINT IN OS NO 228/2012

EXHIBIT.P2:-TRUE COPY OF WRITTEN STATEMENT IN OS NO 228/2012

EXHIBIT.P3:-TRUE COPY OF THE PETITION DTD 11/9/2015 FILED BY THE PLAINTIFF FOR REMOVAL OF THE CASE FROM THE SPECIAL LIST

EXHIBIT.P4:-TRUE COPY OF THE PETITION DTD 11/9/2015 FOR APPOINTMENT ADVOCATE COMMISSIONER FOR FIXATION AND BOUNDARY

EXHIBIT.P5:-TRUE COPY OF THE ORDER DTD 15/9/2015 OF ADDITIONAL MUNSIF COURT, ALAPPUZHA IN IA NO 3439/2015 IN OS 228/2012

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//True Copy//

PA to Judge

K.ABRAHAM MATHEW, J

O.P.(C).NO.2617 OF 2015

Dated this the 30th day of October 2015

J U D G M E N T

Petitioners are defendants 5 and 6 in OS.228 of 2012 of Munsiff Court, Alappuzha. When the suit came up for trial in list, the first respondent/plaintiff filed an application to appoint a commissioner. The allegation is that the learned Munsiff allowed it even without posting it for the objection of the petitioners. The prayer is to set aside ext.P5 order and to direct the Munsiff to post Ext.P4 application for the petitioners's objection.

2. Heard.

3. I am satisfied that the request is reasonable. If the allegation is true, there has been violation of principle of natural justice and provisions in the Civil Rules of Practice.

in the result, this OP is allowed. Ext.P5 order is set aside. The learned Munsiff is directed to post Ext.P4

application for the objection of the petitioners and to pass order afresh after hearing both parties.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge