

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

OP(C).No. 3002 of 2015 (O)

OS 159/2012 OF MUNSIF COURT, CHENGANNUR

PETITIONER(S):

**SHANTHAMMA, AGED 61 YEARS,
W/O. LATE BALAKRISHNAN, VAZHAYIL HOUSE,
NEDUVARAMCODE P.O, ALA SOUTH MURI, ALA VILLAGE,
CHENGANNUR TALUK.**

BY ADV. SRI.K.JAYARAJ

RESPONDENT(S):

- 1. V.SATEESHAN, AGED 47 YEARS,
S/O.LATE UDAYAN, VAZHAYIL HOUSE, NEDUVARAMCODE P.O,
ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR TALUK.**
- 2. V. SAJI, AGED 37 YEARS,
S/O.LATE UDAYAN, VAZHAYIL HOUSE, NEDUVARAMCODE P.O,
ALA SOUTH MURI, ALA VILLAGE, CHENGANNUR TALUK.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 09-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

OP(C).No. 3002 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE PLAINT IN OS NO 159/2012 BEFORE THE MUNSIFF COURT, CHENGANNUR

EXHIBIT P2 THE TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS

EXHIBIT P3 THE TRUE COPY OF THE ORDER OF MUNSIFFS COURT, CHENGANNUR

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.ABRAHAM MATHEW J.

O.P.(C)No.3002 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

The petitioner is the plaintiff in O.S.No.159 of 2012 on the file of Munsiff, Chengannur. The suit is for fixation of boundary and injunction. The petitioner's claim is based on a partition deed of 1983. The respondents/defendants got their property from a co-owner who was allotted the share in the very same partition deed. Their title deed is of 2010. They have made a counter claim for fixation of boundary on the basis of resurvey plan. They filed I.A.No.1704 of 2015 to appoint a commissioner. The petitioner filed an objection stating that the property shall not be measured on the basis of the sale deed relied on by the respondents/defendants. This objection has been overruled by the learned Munsiff.

2. Heard.

3. Though the suit is for fixation of boundary it is surprising that the petitioner has not even filed a commission application. On the other hand, the respondents filed a commission application. The order of the learned Munsiff shows that the commissioner has been directed to measure the properties on the basis of the partition deed of 1983 and the sale deed of 2010. I do not find any reason for the petitioner to feel aggrieved. The learned Munsiff may direct the commissioner to file separate plans if there is any difference in

the measurements conducted on the basis of those two documents.

In the result, this Original Petition is disposed of with the above direction to the learned Munsiff. If a commission application is filed by the petitioner, the learned Munsiff may dispose it of on merits.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge