

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

OP(C).No. 3025 of 2015 (O)

**IA.431/2013 IN OS 88/2007 OF ADDITIONAL MUNSIF'S COURT,
KOTTAYAM**

PETITIONER(S):

**BINU KUMAR, AGED 44 YEARS,
S/O.KUTTAN, PULAYAPARAMBIL HOUSE, MANGANAM.P.O.,
VIJAYAPURAM VILLAGE, KOTTAYAM.**

**BY ADVS.SRI.T.KRISHNANUNNI (SR.)
SRI.P.I.GEORGEKUTTY**

RESPONDENT(S):

- 1. T.K.GOPI, AGED 58 YEARS,
S/O.SANKARAN ETTUPARAYIL HOUSE, MANNUMALIL,
PULIKKUTTISSERY P.O., AYMANAM VILLAGE, PIN 686015.**
- 2. T.K.MADHAVAN, AGED 64 YEARS,
S/O.SANKARAN, THADATHIL VALAMKUNNEL HOUSE,
ERAVINALLOOR, THRIKKOTHAMANGALAM, PUTHUPPALLY VILLAGE,
PIN 690527.**
- 3. T.K.RAMAKRISHNAN, AGED 61 YEARS,
S/O.SANKARAN, ETTUPARAYIL HOUSE, MANGANAM P.O.,
KOTTAYAM, PIN 686018.**
- 4. T.K.SARASAMMA, AGED 60 YEARS,
D/O.SANKARAN, AMALAKUNNEL HOUSE, MANARCADU P.O.,
MANARCADU VILLAGE, PIN 686019.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 15-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1: THE TRUE COPY OF THE SALE DEED NO.165 OF 2008 OF THE
ADDITIONAL SRO KOTTAYAM DTD.15.1.2008.**
- EXHIBIT-P2: THE TRUE COPY OF THE JUDGMENT IN O.S.NO.88 OF 2007 OF THE
ADDL.MUNSIFF COURT, KOTTAYAM DATED 26.2.2009.**
- EXHIBIT-P3: THE TRUE COPY OF THE REVIEW PETITION SUBMITTED BY THE
PETITIONER DATED 28.2.2015 BEFORE THE MUNDIFF'S COURT,
KOTTAYAM.**
- EXHIBIT-P4: THE TRUE COPY OF OBJECTION TO THE COMMISSION REPORT
DATED 28.2.2015 BEFORE MUNSIFF'S COURT, KOTTAYAM.**
- EXHIBIT-P5: THE TRUE COPY OF THE COMMON ORDER DISMISSING THE REVIEW
PETITION DATED 6.10.2015 OF THE ADDL.MUNSIFF'S COURT,
KOTTAYAM.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.ABRAHAM MATHEW J.

O.P.(C)No.3025 of 2015

Dated this the 15th day of December, 2015

JUDGMENT

Petitioner is the 4th respondent in the final decree proceedings in O.S.No.88 of 2007 filed for partition of an immovable property. The trial court has directed sale of the property as it came to the conclusion that physical division of the property among the co-owners is not possible. This is challenged in this Original Petition.

2. Heard.

3. The extent of the property is about 6 cents. There are four co-owners. So there cannot be any dispute that physical division of the property among the co-owners is not possible. Nobody has invoked the provisions under the Partition Act. So the court has to apply Rule 234 of the Civil Rules of Practice.

4. Learned senior counsel appearing for the petitioner submits that an opportunity may be given to the parties to settle the matter amicably. The request appears to be reasonable. The trial court can refer the matter for mediation by the mediators at the district head quarters. If a settlement cannot be arrived at, the parties may be given an opportunity to sell the property privately. If that also is not possible, the learned Munsiff shall proceed under Rule 234 of the Civil Rules of Practice. If all the co-owners cannot agree for sale among them, the Munsiff shall order sale by public auction. Whether it is sale among the co-owners or by public auction, it shall be

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conducted in open court. All the co-owners shall be at liberty to bid if the sale is by public auction.

In the result, this Original Petition is closed with the above directions.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge