

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

OP(C).No. 2498 of 2014 (O)

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AGAINST THE ORDER IN I.A.NO.2459/2014 IN O.S.NO.283/2014 OF MUNSIF
COURT, KOTTAYAM
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PETITIONER(S):

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BINU E.J. AGED 43 YEARS
S/O.JANARDHANAN, ATHIYATH HOUSE, MALAM
MANARCADU KOTTAYAM.**

BY ADV. SRI.M.J.THOMAS

RESPONDENT(S)/PETITIONER:

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1. REMANI, W/O.PRAKASH
ANATHATTIL HOUSE, THIRUVANCHOOR, MANARCADU
KOTTAYAM**

**2. VILASINI, W/O.RAJAPPAN
KEECHAMPALLIL, KANAKARI, KOTTAYAM.**

**R1 BY ADV. SRI.R.SURAJ KUMAR
R1 BY ADV. SRI.SUNIL J.CHAKKALACKAL
R1 BY ADV. SRI.SAJITH C.GEORGE
R1 BY ADV. SMT.V.DEEPA
R1 BY ADV. SMT.V.BEENA**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 11-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - TRUE COPY OF THE PLAINT IN OS NO.283/2014 OF THE MUNSIFFS COURT KOTTAYAM

EXT.P2 - TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER/1ST DEFENDANT IN EXT.P1 SUIT

EXT.P3 - TRUE COPY OF THE COMMISSION APPLICATION IA NO.2459/2014 IN OS NO.283/2014 OF THE MUNSIFFS COURT, KOTTAYAM FILED BY THE 1ST RESPONDENT/PLAINTIFF

EXT.P4 - TRUE COPY OF THE ORDER DATED 23-9-2014 IN NO.2459/2014 IN OS NO.283/2014 OF THE MUNSIFFS COURT, KOTTAYAM

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PA TO JUDGE

K. ABRAHAM MATHEW, J.

O.P.(C)No.2498 of 2014

Dated this the 11th day of September, 2015

J U D G M E N T

Petitioner is the first defendant in O.S.No.283 of 2014 on the file of Munsiff, Kottayam. The suit is for fixation of boundary. The respondent/plaintiff filed an application for appointment of a commissioner to identify the properties on the basis of survey plan. This was allowed by the learned Munsiff by Ext.P4 order. The complaint is that the petitioner did not get a reasonable opportunity to file an objection.

2. It is submitted that copy of the commission application was served on the petitioner on 22.09.2014 and the next day the commission application was allowed. At least three days time should have been given to file objection. So, I am inclined to grant the prayer of the petitioner.

In the result, this O.P is allowed. The learned Munsiff is directed to give an opportunity to the petitioner to file an objection. Thereafter he shall reconsider the order passed

by him and pass fresh orders. If the petitioner does not file objection within two weeks from today the learned Munsiff shall proceed with the case without giving him an opportunity to file an objection.

sd/-

K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge