

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

OP(C).No. 2664 of 2014 (O)

OS.NO.406/2007 OF THE ADDITIONAL MUNSIFF'S COURT, KANNUR

PETITIONER:

THAYYIL PUTHAN VEETIL AJITH, AGED 54 YEARS
S/O.PADMANABHAN NAIR, ENGINEER, 'SREENITHI',
PANAMKAVU, P.O.CHIRAKKAL, KANNUR-670002.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS:

1. KANAKA SASEENDRAN, AGED 58 YEARS,
W/O.LATE SASEEDRAN, HOUSE NO.22, P.P.C.NAGAR
SOUTH POOTHAPPARA, KANNUR-670001.
2. PRASEETHA SURENDRAN,
W/O LATE SURENDRAN, GOVINDA SADAN, NEAR THALAP TEMPLE
KANNUR-670002.
3. K.UPENDRAN,, AGED 78 YEARS
S/O.MAROLI PANCHALI, BUSINESS, THALAP WARD
KANNUR II AMSOM, KANNUR-670002.

R2 BY ADVS. DR.K.P.PRADEEP

SMT.T.THASMI

R3 BY ADVS. SRI.SHAJI THOMAS PORKKATTIL

SRI.K.BABU

SRI.T.V.MNU

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 18-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

OP(C).No. 2664 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 COPY OF THE PLAINT IN O.S.406/2007 OF THE ADDITIONAL
 MUNSIFF'S COURT,THRISSUR**
- EXT.P2 COPY OF THE WRITTEN STATEMENT FILED BY THE SECOND
 DEFENDANT**
- EXT.P3 COPY OF THE REPORT AND PLAN SUBMITTED BY THE ADVOCATE
 COMMISSIONER**
- EXT.P4 COPY OF THE ORDER IN I.A.3646**
- EXT.P5 COPY OF THE AFFIDAVIT AND PETITION FILED BY THE PLAINTIFFS IN
 I.A.4045 OF 2013 IN O.S.406/2007 DATED 27.09.2013**
- EXT.P6 COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONER
 HEREIN IN IA.4045/13**
- EXT.P7 COPY OF THE ORDER IN I.A.4045/2013 IN O.S.406/2007 DATED
 18.03.2014.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

.....
O.P.(C) No. 2664 of 2014
.....

Dated this the 18th day of June, 2015

J U D G M E N T

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. As against the Commissioner's plan and report Ext.P5 objection was filed by the plaintiffs in the suit and Ext.P6 objection was filed by the 2nd defendant in the suit. It seems that the court below has taken a casual approach in dealing with the matter and Ext.P7 order has been passed by remitting the report to the Commissioner and Surveyor. Even though specific objections have been raised by the parties through Exts.P5 and P6, the court below has not addressed any of those matters. Instead, the court below

has merely relegated those matters to the Commissioner to decide. The approach made by the court below in Ext.P7 cannot be appreciated. Ext.P7 is not a speaking order, and it is liable to be set aside.

In the result, the Original Petition is allowed and Ext.P7 order stands set aside. The court below shall address the objections raised by the parties in Exts.P5 and P6, and pass appropriate orders in the matter, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge