

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

OP(C).No. 2883 of 2014 (O)

OS 146/2013 OF MUNSIF COURT,THODUPUZHA

.....

PETITIONER(S):

**SUKUMARAN, AGED 62 YEARS,
S/O. SREEDHARAN, AREEPLACKAL HOUSE, KUNINJI KARA,
PURAPUZHA VILLAGE, THODUPUZHA TALUK.**

BY ADV. SRI.UNNIKRISHNAN.V.ALAPATT

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
IDUKKI - 685 603.**
- 2. VILLAGE OFFICER
PURAPPUZHA, PURAPPUZHA P.O., THODUPUZHA - 685 552.**

BY GOVERNMENT PLEADER SRI.REJI JOSEPH

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 05-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP(C).No. 2883 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- TRUE COPY OF THE PLAINT IN OS 146/2013 ON THE FILE OF THE
MUNSIFF COURT, THODUPUZZHA.**

**EXHIBIT P2- TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE
PETITIONER TO APPOINT AN ADVOCATE COMMISSIONER.**

EXHIBIT P3- TRUE COPY OF THE COMMISSION REPORT DATED 23-7-2014.

EXHIBIT P4- TRUE COPY OF THE TYPED EXTRACT OF THE B-DIARY.

**EXHIBIT P5- TRUE COPY OF THE ORDER DATED 2-9-2014 ORDER IN OS 146/2013 OF
MUNSIFF COURT, THODUPUZZHA.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

PSA.TO JUDGE

Msv/

P.BHAVADASAN, J.

O.P.(C) No. 2883 of 2014

Dated this the 05th day of February, 2015

J U D G M E N T

Aggrieved by the order dated 02.09.2014 in O.S.No. 146/2013, the petitioner before the court below has come up before this Court under Article 227 of the Constitution of India.

2. It is unnecessary to go into the facts in detail for the simple reason that this petition can be disposed of on a very short ground. It is not in dispute that the petitioner sought for issuance of a Commission with the help of a surveyor for measuring the property and also utilizing 'Total Station Survey' method for measuring the property. It is pointed out that the Commissioner was directed to inform the petitioner about the expenses required for the said purpose so that he can deposit the amount.

3. The petitioner would say that since no information was given to him by the Commissioner about the expenses that is required for the purpose, he was not in a position to deposit the same. While so, the case stood posted to 02.09.2014. That being a 'harthal' day, the counsel for the petitioner could not appear on that day and the court below observing that the petitioner has failed to comply with the order, dismissed the petition.

4. So long as the Commissioner has not informed the petitioner about the expenses required for the purposes as per the order passed by the court below, it is difficult to believe how he could have deposited the amount. Since there is no case for the respondent that the Commissioner had informed the petitioner about the expenses required, the order under challenge cannot be sustained.

This petition is allowed and the impugned order is set aside and it is directed that the court below shall direct the Commissioner to inform the expenses required for the

purpose within a period of one month from today and then direct the petitioner to deposit the same.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge