

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

RP.No. 1037 of 2015

**TO REVIEW THE JUDGMENT IN O.P.(C)NO.1998 OF 2015 OF THIS HON'BLE
COURT DATED 16.10.2015.**

REVIEW PETITIONER(S)/RESPONDENTS 1 AND 2 IN THE ORIGINAL PETITION :

- 1. P.C. VARGHESE, AGED 67 YEARS,
S/O.CHACKO, PARAMBIL HOUSE, PANAMKOOTTY KARA,
VELLATHOOVAL VILLAGE, DEVIKULAM TALUK,
IDUKKI DISTRICT - 685 563.**
- 2. THRESSIAMMA, AGED 60 YEARS,
W/O.P.C.VARGHESE, PARAMBIL HOUSE, PANAMKOOTTY KARA,
VELLATHOOVAL VILLAGE, DEVIKULAM TALUK,
IDUKKI DISTRICT - 685 563.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

**RESPONDENT(S)/PETITIONERS AND RESPONDENTS 3 TO 5 IN THE ORIGINAL
PETITION :**

- 1. THANKACHAN, AGED 58 YEARS,
S/O.PAULOSE, NELLICKAL HOUSE, MUDAVOOR KARA,
VELLOORKUNNAM VILLAGE, MUVATTUPUZHA,
ERNAKULAM DISTRICT- 686 673.**
- 2. DEEPA, AGED 40 YEARS,
W/O. THANKACHAN, NELLICKAL HOUSE, MUDAVOOR KARA,
VELLOORKUNNAM VILLAGE, MUVATTUPUZHA,
ERNAKULAM DISTRICT- 686 673.**
- 3. REJI GEORGE, AGED 45 YEARS,
S/O.GEORGE, KELAKATHU HOUSE, ANCHIRI KARA,
ALAKKODU VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT - 685 588.**
- 4. JALEEL, AGED 55 YEARS,
S/O. MEERAKUTTY, KOTAPADICAL HOUSE, VAZHAPILLY KARA,
VELLOORKUNNAM VILLAGE, ERNAKULAM DISTRICT - 686 673.**

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**5. SHAHANAS JALEEL,
KOTAPADICAL HOUSE, VAZHAPILLY KARA,
VELLOORKUNNAM VILLAGE,
ERNAKULAM DISTRICT - 686 673.**

BY ADV. SRI.ALIAS M.CHERIAN

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 26-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

K.ABRAHAM MATHEW J.

R.P.No.1037 of 2015 in O.P(C) No.1998 of 2015

Dated this the 26th day of November, 2015

ORDER

Review Petitioners are plaintiffs in O.S.No.10 of 2015 of Sub Court, Muvattupuzha. The suit is for refund of prepaid purchase price in respect of the plaint schedule property. They alleged that there was an agreement of exchange between them and the first defendant. They obtained an order of attachment under Order 38 Rule 5 of the Code of Civil Procedure. The petitioners in the Original Petition who are respondents 1 and 2 in this Review Petition filed a claim petition alleging that the property had been sold to them long before the alleged agreement of exchange. The review petitioners filed an application for appointment of a commissioner to ascertain the value of the property. This is challenged in this Original Petition. This court found that the appointment of commissioner was beyond the scope of the proceedings and set aside the order. This is sought to be reviewed.

2. Heard.

3. After hearing both parties, I think it is sufficient to make it clear that if the value of the property is relevant in the suit the plaintiffs may file another application notwithstanding the dismissal of the commission application filed in the proceedings under Order 38 Rule 5 of the Code of Civil Procedure.

With the above observation this Review Petition is disposed of. The trial court shall dispose of the claim petition as early as possible.

Sd/-
K.ABRAHAM MATHEW
JUDGE

cms

/True copy/

P.S.to Judge