

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

RSA.No. 1259 of 2014 ()

**AS 75/2010 of PRL.SUB COURT, THRISSUR
OS 473/1993 OF PRL. MUNSIFF COURT, THRISSUR**

APPELLANT/APPELLANT/PLAINTIFF :

**MADHAVAN, AGED 74 YEARS,
S/O. CHULLIPARAMBIL KUNJUNNI, PONALLUR DESOM,
MANALUR VILLAGE, THRISSUR TALUK.**

BY ADV. SRI.RAJIT

RESPONDENTS/RESPONDENTS/DEFENDANTS :

- 1. RAVEENDRAN, AGED 65 YEARS,
S/O. CHULLIPARAMBIL KUNJUNNI, PONALLUR DESOM
MANALUR VILLAGE, THRISSUR TALUK - 680617**
- 2. SOUMINI, AGED 54 YEARS,
W/O RAVEENDRAN, CHULLIPARAMBIL, PONALLUR DESOM
MANALUR VILLAGE, THRISSUR TALUK- 680617**
- 3. KERALA STATE
REP. BY DISTRICT COLLECTOR, THRISSUR - 680003**
- 4. ASST. EXECUTIVE ENGINEER
LIFT IRRIGATION, CHAVAKKAD - 680506**

**R1 & R2 BY ADV. SRI.M.R.VENUGOPAL
BY ADV. SMT.DHANYA PASHOKAN
R3 & R4 BY GOVERNMENT PLEADER SRI. JOBY JOSEPH**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

P.B.SURESH KUMAR, J.

R.S.A.No.1259 of 2014

Dated this the 22nd day of December, 2015

JUDGMENT

The plaintiff in a suit for fixation of boundary is the appellant in this second appeal. The first defendant is the brother of the plaintiff and second defendant is the wife of the first defendant.

2. As per Ext.A1 partition deed, the plaintiff obtained 12.5 cents of property and the first defendant obtained 10.7 cents of property. The property allotted to the first defendant as per the said document lies on the north of the property allotted to the plaintiff. On the east of the property allotted to the plaintiff lies the property of the 2nd

defendant. The Commissioner appointed in the suit suggested the fixation of the boundary between the properties of the plaintiff and first defendant in three different manners as shown in Exts.C4(a), C4(b) and C4(c) plans. The trial court accepted Ext.C4(b) plan and decreed the suit. The plaintiff took up the matter in appeal. The appellate court confirmed the decision of the trial court and hence the second appeal by the plaintiff.

3. Heard the learned counsel for the plaintiff as also the learned counsel for the first defendant.

4. The learned counsel for the plaintiff submitted that the courts below should have accepted Ext.C4(a) plan in the place of Ext.C4(b) plan. As noted above, the extent of property obtained by the plaintiff as per Ext.A1 partition deed is 12.7 cents and the extent of property obtained by the first defendant as per the said document is 10.70 cents. The western boundary of the property allotted to the

plaintiff is shown in Ext.A1 as canal. Likewise, the western boundary of the property allotted to the first defendant is also shown in Ext.A1 as canal. In Ext.C4(a) plan, the western boundary is not the canal. Ext.C4(b) plan tallies not only with the boundary descriptions in the document, but also the extent of the property shown in the document. The courts below cannot be faulted, in the circumstances, in accepting Ext.C4(b) plan for fixing the boundary between the properties of the parties. The second appeal, in the circumstances, is devoid of merits and the same is accordingly dismissed. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

smm