

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 1987 of 2015 (W)

PETITIONER :

ANIL SONY B.T., AGED 36 YEARS
S/O.B.A.THOMAS, BHARANIKULANGARA HOUSE, THURAVOOR POST
ANGAMALY, ERNAKULAM-683572.

BY ADVS.SRI.DENIZEN KOMATH
SMT.ANNIES MATHAI

RESPONDENTS :

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1. DISTRICT COLLECTOR,
ERNAKULAM-682030.
 2. DEPUTY DIRECTOR,
SURVEYS AND LAND RECORDS, 5TH FLOOR, COLLECTORATE
KAKKANAD, ERNAKULAM-682030.
 3. TAHZILDAR,
TALUK OFFICE ALUVA, CIVIL STATION, ALUVA-683101.
 4. SUPERINTENDENT OF SURVEY AND LAND RECORDS,
ALUVA TALUK, CIVIL STATION, ALUVA-683 101.
 5. HEAD SURVEYOR AND APPROVING AUTHORITY,
REGISTRATION SUB DISTRICT SURVEY OFFICE, ANGAMALY
ERNAKULAM-683572.
 6. SUB REGISTRAR,
OFFICE OF THE SUB REGISTRAR, ANGAMALY-683572.

R BY GOVERNMENT PLEADER SRI.ABHIJETT LESSIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1987 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : TRUE PHOTOCOPY OF THE LEGAL HEIR SHIP CERTIFICATE OF THE FATHER OF THIS PETITIONER.

EXT P2 : TRUE PHOTOCOPY OF THE LAND TAX RECEIPTS.

EXT P3 : TRUE PHOTOCOPY OF THE NOTICE SERVED BY THE SURVEYOR FOR MEASURING THE PROPERTIES DATED 10-10-2013.

EXT P4 : TRUE PHOTOCOPY OF THE G.O.(P).NO.53/2005/RB DATED 22-02-2005.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

K.SURENDRA MOHAN, J.

W.P.(C) No.1987 of 2015

Dated this the 25th day of March, 2015

J U D G M E N T

The petitioner is the son of late Thomas B.A. a permanent resident of Angamaly, Ernakulam. His father died on 29.12.2007, leaving behind properties. His legal heirs are entitled to succeed to his properties. Ext.P1 is the legal heir ship certificate, which shows the petitioner to be one of the legal heirs. The petitioner and other legal heirs wanted to partition the properties left by their father, among themselves. They approached respondents 3 and 4 for the purpose of survey measurement of the properties, for the reason that, they wanted to know the exact extent and lie of the properties. Pursuant to that, Ext.P3 notice was issued. However, the survey sketch has not been issued to the petitioner so far. The petitioner seeks the issue of appropriate directions for the issue of a survey sketch to him.

2. The learned Government Pleader submits that, the survey sketch had not been issued for the reason that, there is a suit O.S.No.139/2011 pending before the Munsiff's Court, Aluva relating to the properties. There are also complaints regarding the survey numbers furnished by the petitioner. The learned counsel for the petitioner responds to the above contention by submitting that, the petitioner would produce documents before the 3rd respondent evidencing the title of Sri.B.A.Thomas and also showing that, the suit that is pending does not relate to any dispute regarding the title of the

properties. It is stated that, the suit has been filed by third parties claiming a right of easement over the properties.

3. Heard. In the circumstances narrated above, I am satisfied that, it is necessary for the 3rd respondent to enquire into the claims put forwarded by the petitioner as well as the others who have objected to the survey numbers of the properties, with respect to which the petitioner claims title. The petitioner shall be permitted to produce documents in support of his case. The 3rd respondent shall be at liberty to consider the contentions of the objectors also and to pass appropriate orders in the matter.

In view of the above, this writ petition is disposed of, directing the 3rd respondent to issue notice to the petitioner and other legal heirs, the persons who have objected to the properties with respect to which the petitioner has raised his claim as well as plaintiff in the suit that is pending before the Munsiff's Court, Aluva, to afford an opportunity of being heard to all parties after permitting them to produce documents in support of their claims and to pass appropriate orders in the matter. The orders shall be passed as expeditiously as possible and at any rate within a period of three months of the date of production of a copy of this judgment by the petitioner.

Sd/-
K.SURENDRA MOHAN, JUDGE.