

IN THE COURT OF THE PRINCIPAL MUNSIF, CHERTHALA

Present: Sri. Rovin Rodrigues, Principal Munsiff

Wednesday, the 19th day of February 2025/ 30th Magham, 1946

IA 5/2024 in O. S. No. 47/2017

(Filed on 03.09.2024)

Petitioner/Plaintiff:-

Ittoop Alexander, S/o.Alexander @ Chandy,
Kunnuthara House, Thirunelloor P.O.,Cherthala.

By Adv.John Varghese & Adv. Arun Kumar M.A.

Cr.Petitioners/Defendants:-

1. Mohanan, (died), Karyathu, Thirunelloor P.O.
2. Shiny Mohanan,-do-
3. Aswin Mohanan, -do-
4. Aparna Mohanan, -do-

By Adv.P.Manoj.

This petition having been heard on 19.02.2025 and the court on the same day passed the following:-

ORDER

Petitioner /Plaintiff has filed this petition seeking to examine the Advocate commissioner who had prepared the ex parte commission report dated 30.01.2017. It is contended that marking of the aforesaid report is necessary for determining IA 3/2024 which was filed to set aside the commission report and survey plan dated 30.09.2022.

2. Respondent/ Defendant filed objection stating that there is no error apparent on the face of record necessitating a review of the Order of this Court posting IA 3/2024 for hearing. It is argued that examination of

commissioner who prepared the first commission report is not necessary to decided the legality of Survey Commission report. It was also argued that the application is filed only to drag the case.

3. Heard and perused the records.

4. Petitioner/Plaintiff filed this application to review the Order of this Court posting IA 3/2024, for hearing. It is urged that the previous commission report is necessary for ascertaining the location and lie of plaint schedule properties at the time of filing the suit. IA 3/2024 was filed for setting aside the commission report and Survey plan. It is argued in that petition that the commissioner failed to locate and identify the plaint schedule property. This Court is bound to decide acceptability of Commission Report and Plan before proceeding with the trial as held by Hon'ble High Court in *Ramakrishnan R.K. v. P.C.Moosa Haji 2024 KHC 375*.

5. Hence, I am of the considered opinion that examining the Advocate commissioner who had prepared the Ex parte Commission Report is necessary in this case and it will not prejudice the respondent/ defendant.

Hence, IA is allowed.

(Pronounced by me in the open court on this the 19th day of February, 2025)

Sd/-

Rovin Rodrigues

Principal Munsiff

Appendix: - Nil

Sd/-

Principal Munsiff

/True Copy/

Principal Munsiff

*Fair Copy of Order in
IA No.5/25 in O.S.47/2017
Dated: 19.02.2025*