

**IN THE COURT OF THE MUNSIFF, KOCHI**

**Present :-**

**Sri. Anirudhan T K, Additional Munsiff**

Saturday the 7<sup>th</sup> day of September, 2024/16<sup>th</sup> Bhadra, 1946

**I.A. No. 2/2024 in O.P. No. 4/2023**

**Petitioners/Petitioner:--**

- 1 Paul Raj, S/o.Simon, Marottikarapambil House, Ochanthuruthu PO, Puthuvype, Pin-685508
- 2 Maggi, W/o.Simon, Marottikarapambil House, Ochanthuruthu PO, Puthuvype, Pin-685508

By Adv.R Leela, Dhiya K Noel & Shini Mary Sanu

**Respondents/Respondents :-**

- 1 Laina, aged 54 years, W/o.Thomas, residing at Kuruppasherry House, Valappu, Malipuram PO, Pin-682511.
- 2 Lisha, aged 52 years, W/o.Stephen, Ittikunnathu House, Valappu, Malipuram-682511
- 3 Mary M S @ Soya, W/o.V T Joseph, Veliyil House, Malipuram PO, Pin-682511

By Adv. C T Jestin & Jyothi K

This petition come up for hearing before me on 02.09.2024 and the court on 07.09.2024 passed the following:-

**ORDER**

Petition filed to appoint an Adv. Commissioner.

**2. Petitioner's contentions in brief, is as follows:-** The above O P is for depositing the charge amount stipulated in a Will deed executed in favour of the petitioner by the father of the petitioner regarding father's property. Petitioner states that when he filed the above OP as a counter blast to the OP, the respondent filed OS.73/2024. The petitioner further stated that the condition of the house which situated in the property covered by the Will is in a very pathetic condition and it may be collapsed on account of its age. Some photographs to show the condition of the dilapidated condition of the house are also produced. Due to the dilapidated condition of the building during the rain the electricity of the house has to be switched off to prevent electric shocks. Further even after rain is over, till the wall is dry the switches have to be touched only with severe caution. It was under this circumstance the petitioner filed the above OP for direction to deposit sum of Rs.1,50,000/-(Rupees One Lakh Fifty Thousand only) each to the respondents and for effecting mutation of the property. Therefore, it is highly necessary to bring actual picture of the property and the present condition of the house, hence, an Adv.Commissioner may be appointed for reporting the above matters for which the petition is filed.

3. The respondents filed objection stating that OS.73/24 filed not as a counter blast to the above OP. After considering the merit of the case, a

temporary injunction was also passed in the suit restraining the petitioner herein from alienating the plaint schedule property. The building is not in pathetic condition and it is not as old as stated in the petition. The problem of the electric shock can be solved by doing necessary maintenance work. The petition is filed only to protract the matter. The inspection of the residential building by an Adv. Commissioner is not at all required to decide the above OP and at the points to be noted by the Adv. Commissioner has no relevance to the above petition. Hence the petition may be dismissed.

4. Heard both sides.

5. **The following point arise for consideration:-**

(i) **Whether the petition is allowable?**

6. **The point:-** The petition is filed to report regarding the dilapidated condition of the house situated in the petition schedule property covered by the Will, executed by the father of the petitioner. Since the above OP is filed only for allowing to deposit of charge amounts attached to the will, no other matters are relevant in the OP. In order to decide the OP no report, as sought by the petitioner, by appointing an Adv. Commissioner, is needed. For the disposal of the OP the present condition of the building is not at all necessary, as rightly contended by the respondents. There is no relevance to the petition in the above OP. Hence this petition cannot be allowed.

**In the result, petition stands dismissed. No costs.**

*(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 7<sup>th</sup> day of September, 2024)*

Sd/-  
**Anirudhan T K**  
**Additional Munsiff**

**APPENDIX : Nil**

Id/-  
**Additional Munsiff**

**//True Copy//**

**Additional Munsiff**

**ORDER**

**I.A. No.2/2024**

**O.P. No. 4/2023**

**Dated : 07.09.2024**