

IN THE COURT OF THE MUNSIFF, PERUMBAVOOR

Present:- Smt. Alshari.A, Munsiff

Saturday the 1st day of April, 2023/ 11th Chaithra, 1945.

E.A.Nos.310/2022 & 3/2023

in

E.P.No.123/2016 in O.S.No.152/2010

E.A.No.310/2022:

Petitioner/Decree Holder/ Counter Claim Plaintiff:-

Pathrose, S/o. Paily, Chemmala House,
Vilangu Kara, Kizhakkambalam Village.

By Adv. P T Geevarghese.

Respondents/Judgment Debtors/ Counter Claim Defendants:-

- 1 M.M. Sam @ Mathew Sam, S/o. Esow Mathew,
Mamoottil House, Vilangu Kara, Kizhakkambalam Village.
- 2 Beena George, W/o. M. M. Sam @ Mathew Sam,
Mamoottil House, Vilangu Kara, Kizhakkambalam Village.

By Adv. Hashim Althaf.

E.A.No.3/2023:

Petitioner/Decree Holder/ Original Defendant:-

Pathrose, S/o. Paily, Chemmala House,
Vilangu Kara, Kizhakkambalam Village.

By Adv. P T Geevarghese

Respondents/Judgment Debtors/Original Plaintiffs:-

- 1 M.M. Sam @ Mathew Sam, S/o. Esow Mathew,
Mamoottil House, Vilangu Kara, Kizhakkambalam Village.
- 2 Beena George, W/o. M. M. Sam @ Mathew Sam,
Mamoottil House, Vilangu Kara, Kizhakkambalam Village.

By Adv. Hashim Althaf.

These petitions having been finally heard before me on 14.3.2023 and the court on 1.4.2023 passed the following:-

COMMON ORDER

1. Heard both sides.
2. **E.A 310/22**:- This is a petition filed to identify the plaint A schedule property as per C4(a) plan by fixing by fixing the southern boundary. So, the commissioner is to be directed to identify the property as per Ext. C4(a). According to the petitioner in **E.A 03/23**, it is stated that the Advocate commissioner appointed is no more and also it is stated that the Taluk surveyor appointed is seeking the assistance of one John Kurian who was paid an amount of Rs. 2,000/-. So as per the petition said John Kurian was delegate with the work by the Taluk surveyor. Hence, the petition is filed to appoint an Advocate commissioner so as to identify the property on the basis of C4(a) plan.
3. The respondent had filed objection to the petitions. According to him, if the property is identified only on the basis of Ext. C4(a), the property of the respondents cannot be identified. Therefore, the decree A, B, C, D scheduled property has to be identified simultaneously and the B and E property is to be delivered to the respondents for which E.P 93/19 is filed.

4. On going through the petition averments in E. A 3/23 it can be seen that the earlier Advocate commissioner is no more. So a new Advocate commissioner is to be appointed substituting the earlier Advocate commissioner. Even though, there is no material to show that one John Kurian is delegated to carry out the work by the Taluk surveyor. The averments cannot be ignored as such. Since, the Taluk surveyor have no authority to delegate his work for which he was appointed. An intimation is to be issued to the Taluk surveyor to direct him to do the work directly and not by delegating any others for which he was appointed. So, an intimation is hereby issued to the Taluk surveyor for giving him directions to carry out the work and to assist the Advocate commissioner to identify the property on the basis of the plans appended to decree and execute the decree and assist the Amin in delivering the property as per the decree in O.S.152/10. Advocate commissioner is directed to identify the property on the basis of the all plans appended to the decree and to measured the property as per the provisions of survey manual in identifying the property. Adv. K.M. Alias is hereby appointed by substituting the earlier Advocate commissioner.

5. In the result, the petition is allowed accordingly to measure and identify the property as per the commission reports and plans appended to the decree including Ext.C4(a) plan and the Advocate commissioner is hereby substituted.

Dictated to the confdl. asstt., transcribed and typed by her, corrected and pronounced by me in open court on this the 1st day of April, 2023.

Sd/-
ALSHARI.A,
MUNSIFF.

APPENDIX
NIL

Id/-
Munsiff
(By Order)

// True Copy //

(Carbon Copy issued as per order in E.A.No.116/2023 in E.P.No.123/2016 in
O.S.No.152/2010 dated 5.4.2023)

Junior Superintendent
Examiner

jpp/-
Compd.by :

Carbon copy of Common
Order E.A.Nos.310/2022 &
3/2023 in E.P.No.123/2016 in
O.S.No.152/2010

Dated : 1.4.2023