

Shajahan Vs. Rahim

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SooperKanoon Citation : sooperkanoon.com/1137029

Court : Kerala

Decided On : Apr-02-2014

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Shajahan

Respondent : Rahim

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH WEDNESDAY, THE 2D DAY OF APRIL 2014 12TH CHAITHRA, 1936 OP(C).No. 979 of 2014 (O) ----- AGAINST THE

ORDER

IN OS6762000 of ADDL.MUNSIFF COURT, KOLLAM DATED 28-11-2013 -----
PETITIONER(S)/DECREE HOLDER: -----
SHAJAHAN.I, AGED 46 S/O.IBRAHIMKUTTY, KADACHERIYIL VEEDU, PARAKULAM, VADAKKUMKARA-KIZHAKKE CHERRY, THATTAMALA VILLAGE, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER K.MEERA SAHIB, KADACHERIYIL, UMayANALLOOR CHERRY, MAYYANADU VILLAGE, KOLLAM. BY ADVS.SRI.O.V.MANIPRASAD SRI.SAJU J PANICKER
RESPONDENT(S)/

JUDGMENT

DEBTOR: ----- RAHIM,
S/O.IBRAHIMKUTTY, VARUVILA VEEDU, PARAKULAM, VADAKKUMKARA
KIZHAKKE CHERRY, MAYYANADU. THIS OP (CIVIL) HAVING COME UP FOR
ADMISSION ON0204-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: PJ OP(C).No. 979 of 2014 (O) -----
APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1 :
THE TRUE COPY OF THE

JUDGMENT

IN OS6762000 OF THE ADDITIONAL MUNSIF COURT, KOLLAM EXHIBIT P2 :
THE TRUE COPY OF THE

ORDER

IN IA NO.2837/2004 OF THE ADDITIONAL MUNSIF COURT, KOLLAM EXHIBIT
P3 : THE TRUE COPY OF THE

JUDGMENT

IN AS NO.10/2010 OF THE ADDITIONAL SUB COURT, KOLLAM EXHIBIT P4 :
THE TRUE COPY OF THE EXT.C2(C) PLAN APPENDED TO THE DECREE
AFTER EXT.P2

ORDER

EXHIBIT P5 : THE TRUE COPY OF THE EXT.C2(B) PLAN EXHIBIT P6 : THE
TRUE COPY OF THE EP NO284/2010 EXHIBIT P7 : THE TRUE COPY OF THE

ORDER

DATED1903.2011 IN EP NO.2842/2010 IN OS NO.676/2000 EXHIBIT P8 : A
TRUE COPY OF THE

JUDGMENT

DATED0509.2012 IN OP(C) NO.1267/2011 EXHIBIT P9 : THE TRUE COPY OF
THE PETITION FILED BY THE PETITIONER FOR APPOINTING TALUK
SURVEYOR EXHIBIT P10 : THE TRUE COPY OF THE

ORDER

DATED1102.2013 IN EP NO.284/2010 IN OS NO.676/2000 OF THE ADDITIONAL MUNSIFF COURT, KOLLAM EXHIBIT P11 : THE TRUE COPY OF THE REPORT FILED BY THE ADVOCATE COMMISSIONER EXHIBIT P12 : THE TRUE COPY OF THE INTERIM REPORT DATED0107.2013 FILED BY THE ADVOCATE COMMISSIONER & VILLAGE OFFICER, MAYYANAD EXHIBIT P13 : THE TRUE COPY OF THE REPORT DATED2709.2013 AND PLAN DATED1309.2013 EXHIBIT P14 : THE TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT EXHIBIT P15 : THE TRUE COPY OF THE

ORDER

DATED2811.2013 IN EP NO.284/2010 IN OS NO.676/2010 OF THE ADDITIONAL MUNSIFF COURT, KOLLAM RESPONDENT(S)' EXHIBITS ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ V.CHITAMBARESH, J.

----- O.P (C) No.979 of 2014 ----- Dated this the 2nd day of April, 2014

JUDGMENT

An order setting aside the report and plan of the Advocate Commissioner in a suit for fixation of boundary and consequential injunction is impugned. It has been so done on the premise that the report and plan is not in tune with the directions in the judgment in O.P.(C) No.1267/2011. I do not find any error of jurisdiction in the order impugned warranting interference in the supervisory jurisdiction.

2. I however direct the court of the Additional Munsiff of Kollam to appoint a Senior Advocate as the Commissioner. This is because there is discrepancy between Ext.C2(b) plan filed on the basis of re-survey records and Ext.C2(c) plan filed on the basis of old survey records. The Advocate Commissioner shall however adhere to the directions contained in OP (C) No.1267/2011. The entire exercise shall be completed within a period of three months from the date of production of this judgment. The Original Petition is disposed of. Sd/- V.CHITAMBARESH, Judge. nj.