

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.SOMARAJAN**

**WEDNESDAY, THE 31<sup>ST</sup> DAY OF MAY 2023 / 10TH JYAISHTA, 1945**

**OP(C) NO. 686 OF 2023**

**AGAINST THE ORDER DATED 27-01-2023 IN I.A.NO.3/2022 IN O.S.NO.88/2008  
OF MUNSIFF MAGISTRATE COURT, MANANTHAVADY**

**PETITIONER/1<sup>ST</sup> PETITIONER IN I.A.3/2022/1<sup>ST</sup> DEFENDANTS IN OS:**

MARTIN.K.P  
S/O PHILIPPOSE, AGED 59 YEARS,  
KATTAKKAYATHIL VEEDU,  
MANANTHAVADY AMSOM DESOM,  
MANANTHAVADY

BY ADVS.  
B.KRISHNAN  
R.PARTHASARATHY

**RESPONDENTS/RESPONDENT & 2<sup>ND</sup> PETITIONER IN I.A.3/2022/PLAINTIFF AND 2<sup>ND</sup>  
DEFENDANT IN OS:**

- 1 MICKLE K.P,  
S/O PHILIPPOSE, AGED 62 YEARS,  
KATTAKKAYATHIL VEEDU,  
MANANTHAVADY AMSOM DESOM,  
MANANTHAVADY
- 2 LALI MARTIN,  
W /O MARTIN K.P.,  
KATTAKKAYATHIL VEEDU,  
MANANTHAVADY AMSOM DESOM,  
MANANTHAVADY

BY ADV BIJU ABRAHAM

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 31.05.2023, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

It is pertaining to the issue of a survey commission by the trial court in a suit for fixation of boundary and injunction, the defendant came up on the reason that the Commissioner and the surveyor had utterly failed to locate the property in accordance with the respective title deeds. The learned counsel for the respondent/plaintiff fairly conceded that there are some discrepancies in the report and the plan submitted by the survey commissioner. But they are not prepared to send out another one. On the other hand, the counsel for the respondent fairly submitted that a fresh survey commission can be issued at their cost as it is highly necessary to resolve the dispute involved. It is also necessary to locate the

large extent of property which comes to 6 Acres and 90 cents in R.S.No.352/1 so as to locate the respective properties claimed by the parties to the suit. Hence, it deems fit to direct the trial court to allow the petitioner/defendant to send out a fresh commission for conducting survey of the property based on the abovesaid observations.

With the above direction, the O.P.(C) will stand disposed of.

Sd/-

**P . SOMARAJAN**

**JUDGE**

**APPENDIX OF OP(C) 686/2023**

**PETITIONER EXHIBITS**

Exhibit-P1	TRUE COPY OF THE PLAINT IN O.S.NO. 88/2008 ON THE FILE OF MUNSIFF COURT, MANANTHAVADY
Exhibit-P2	TRUE COPY OF WRITTEN STATEMENT DELIVERED BY THE DEFENDANT IN THE SUIT O.S.NO. 88/2008
Exhibit-P3	TRUE COPY OF THE REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER WITH PLAN ANNEXED
Exhibit-P4	TRUE COPY OF THE AFFIDAVIT FILED IN SUPPORT OF THE APPLICATION BY DEFENDANT
Exhibit-P5	TRUE COPY OF THE PREVIOUS REPORT OF COMMISSIONER DATED 22.02.2019
Exhibit-P6	TRUE COPY OF THE ORDER PASSED BY THE MUNSIFF, MANANTHAVADY DATED 27-1-2023

**RESPONDENTS EXHIBITS NIL**

**TRUE COPY**

**P.A.TO JUDGE**