

(1987) 12 KL CK 0033

High Court Of Kerala

Case No: CRP No. 1270 of 1982-F

Superintendent of Survey and
Land Records

APPELLANT

Vs

Raveendranathan

RESPONDENT

Date of Decision: Dec. 14, 1987

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 26 Rule 15

Hon'ble Judges: V. Bhaskaran Nambiar, J

Bench: Single Bench

Advocate: T.P.K. Nambiar, P.G. Rajagopalan, Devakikutty and Mr. P. Ravindran, for the Respondent

Final Decision: Dismissed

Judgement

Bhaskaran Nambiar, J.

The State is the revision petitioner. The Court below issued a Commission at the instance of the plaintiffs. The Commission inspected the property and then claimed additional remuneration Rs.250/- was awarded as additional remuneration for the Commissioner; but it was directed that the amount will be paid by the State. The State is aggrieved by this order. Even though the amount directed to be paid is insignificant the Government Pleader submits that there is no justification to direct the State, the defendant to pay the amount of the Commission in view of Order 26 Rule 15 which reads thus:-

"15. Expenses of commission to be paid into Court-Before issuing any commission under this order, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be within a time to be fixed paid into Court by the party at whose instance or for whose benefit the commission is issued."

Order 26 Rule 15 control the discretion of the Court in fixing the commission remuneration only before issuing the Commission. It has nothing to do with the

sanction of additional remuneration or does not curtail the discretion of the Court to direct payment of the additional remuneration to be paid by one or other party to the suit. It is difficult to agree with the submission of the Government Pleader that the additional remuneration due to a Commission for the work done should not be directed to be paid by the defendant or by the State who is a party. In this view, this C.R.P. has no merits and has to be dismissed. It is accordingly dismissed. No costs.