

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

CRP.No. 15 of 2015 ()

(JUDGMENT IN OS 364/2012 OF THE ADDITIONAL SUB COURT, THALASSERY
DATED 19.9.2014)

REVISION PETITIONER/DEFENDANT:

P.M.BALAKRISHNAN AGED 68 YEARS
S/O. KRISHNAN NAMBIAR, ANAND BHAVAN, PONNIAM WEST P.O.
PONNIAM, THALASSERY, KANNUR DISTRICT - 670 641.

BY ADVS.SRI.ABRAHAM K.JOHN
SMT.C.G.ARUNDHATHI

RESPONDENT/PLAINTIFF:

KEEZHATTIL VAIREE KHATHAKA TEMPLE, AGED 67 YEARS
KAKKARA, KADIRUR, TELLICHERRY
REPRESENTED BY ITS CHAIRMAN, K.M.NARAYANAN
S/O. LATE KANARI, PONNIAM P.O., TELLICHERRY TALUK
KANNUR DISTRICT - 679 641.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON
14-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1: THE PHOTOSTAT COPY OF THE PLAINT IN O.S.NO.364/2012 OF THE HONOURABLE SUB COURT, THALASSERY.

ANNEXURE A2: THE TRUE PHOTOSTAT COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANT IN O.S.NO.364/2012 OF THE ADDITIONAL SUB COURT, THALASSERY.

ANNEXURE A3: CERTIFIED COPY OF THE JUDGMENT DATED 19.9.2014 IN RESPECT OF THE FINDING OF ISSUE NO.1 IN O.S. NOP.364/12 OF THE ADDITIONAL SUB COURT, THALASSERY.

RESPONDENT'S EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

Scl.

P. BHAVADASAN, J.

C.R.P. No.15 of 2015

Dated this the 14th day of January, 2015.

ORDER

Aggrieved by the order dated 19.9.2014 in O.S.No.364 of 2012, the defendant has come up in the revision. The suit is one for recovery of possession of the plaint schedule properties on the strength of the title of the plaintiffs temple and permanent prohibitory injunction. The plaintiff is a temple and the allegation was that by virtue of an unauthorised lease, the defendant has been in occupation of the property and the temple seeks to recover the property.

2. The defendant resisted the suit claiming fixty of tenure over the schedule property and also contended that the valuation of the suit and a court fee paid by the plaintiff are insufficient.

3. One of the issues related to the valuation of the suit and if the court fee paid is correct. That was heard as a preliminary issue. When the above issue was taken up for hearing, the plaintiff produced a notification whereby State had issued a notification reducing the court fee for recovery of possession of immovable property belonging to the Hindu Religious Institutions coming

under the preview of Hindu Religious and Charitable Endowment (Administration) Department and which had been unauthorisedly alienated by the trustees to the said institution to Rs.15/-.

4. The contention taken by the learned counsel appearing for the petitioner is that it applies only to unauthorisedly alienated property and not to a valid lease.

5. One has to primarily go by the averments in the plaint and in the plaint, it is specifically stated that the lease granted is unauthorised and without authority. If that be so, it falls within the ambit of the notification.

6. Further, the defendant is entitled to any other relief in different manner. All that, the court below has found that one of the notification which is extracted in the memorandum of revision petition, it cannot be said that the defendant is entitled to the benefit.

This court finds no grounds to interfere with the order of the court below. The revision petition is without any merits and is accordingly dismissed.

Sd/-
P. BHAVADASAN
JUDGE

Scl.