

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS**

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

FAO.No. 329 of 2012 ()

**(AGAINST THE ORDER IN I.A.NO.4070/2011 IN O.S.NO.806/2011 ON THE FILE OF
ADDL.SUB COURT, THIRUVANANTHAPURAM DATED 9.8.2012)**

APPELLANT(S)/PLAINTIFF:

**JOHN JEFFREY TENNYSON,
S/O. TENNYSON FERNADEZ, RESIDING AT JEFETEN,
TC 33/892 (4), TTP P.O, KOCHUVELI,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.V.SURESH
SRI.G.SUDHEER**

RESPONDENT(S)/DEFENDANTS:

- 1. WILFRED CULAS,
S/O. ROKIN CULAS, T.C 29/298, CHEPPIL HOUSE,
THENGAPPURA LANE, PALKULANGARA, KATHAMUKKU P.O.,
THIRUVANANTHAPURAM - 695 001.**
- 2. LITTLE FLOWER ALIAS USHA, W/O. WILFRED CULAS,
T.C 29/298, CHEPPIL HOUSE, THENGAPPURA LANE,
PALKULANGARA, KATHAMUKKU P.O.
THIRUVANANTHAPURAM - 695 001.**
- 3. VIVIAN JOLLY,
S/O. LATE JOHN PETER FERNADEZ,
T.C 11/1868 (1), HAPPY HOMES, TILAK NAGAR, PAROTTUKONAM,
NALANCHIRA, THIRUVANANTHAPURAM - 695 001.**

RR3 BY ADV. SRI.BECHU KURIAN THOMAS

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

DG

**THOTTATHIL B.RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

F.A.O. No.329 of 2012

Dated this the 11th day of June, 2015

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1.Heard. The plaintiff in a suit for declaration and specific performance of a contract is the appellant. There are three defendants in the suit. Plaintiff filed an application seeking an order of temporary injunction, restraining the defendants from alienating the plaint schedule property and not to evict the plaintiff from the suit property. The trial court granted an order of temporary injunction against defendants 1 and 2 only. That was as against alienation of property.

2.The plaintiff filed the appeal in hand, challenging the refusal of an order of temporary injunction as against the 3rd defendant. An ad interim order of temporary injunction was issued by this Court on 1.11.2012 on I.A.No.1453 of 2012, restraining the 3rd

respondent from committing any act of right of possession or disturbing the plaintiff from possession. That ad interim order has governed the appeal till today, 11.6.2015.

3. Having heard the learned counsel for parties, we are satisfied that ends of justice require that the fact situation now prevailing on the basis of the aforesaid interim order should continue till disposal of the suit, paving way to an earlier adjudication and final disposal of the main matter. The balance of convenience is also in favour of such order being issued, having regard to the prima facie case established by the plaintiff for an order as against the 3rd defendant as well.

In the result, this appeal is ordered, directing that the interlocutory order issued on 1.11.2012 on I.A.No.1453 of 2012 in this appeal will stand absolute in the final disposal of O.S.No.806 of 2011 of the Additional Sub Court, Thiruvananthapuram and that court will endeavour to adjudicate and finally dispose the suit before the end of 2015. The parties are directed to mark appearance before the court

below on 30.6.2015. The trial court will ensure that the trial and final disposal are untrammelled by anything stated in the order impugned or in this judgment touching the merits of the rival contentions of the parties.

Sd/-
(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

Sd/-
(SUNIL THOMAS, JUDGE)

//TRUE COPY//

P.A TO JUDGE

DG