

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

Ex.SA.No. 24 of 2015

**E.A.NO.124/2013 IN E.P.NO.19/2013 IN O.S.NO.639/2012 OF THE PRINCIPAL
MUNSIFF COURT, ERNAKULAM**

A.S.NO.15/2014 OF THE IIIIRD ADDITIONAL DISTRICT COURT, ERNAKULAM

APPELLANT(S)/APPELLANT/CLAIM PETITIONER :

**JAMES VARGHESE, AGED 30 YEARS,
S/O.P.J.VARGHESE, PAYAPPALLY HOUSE, KOONAMTHAI,
AMBALAM ROAD, CHANGAMPUZHA NAGAR P.O, EDAPPALY,
ERNAKULAM DISTRICT- 682 033.**

BY ADV. SRI.SIVAN MADATHIL

RESPONDENT(S)/RESPONDENTS/DECREE HOLDER/JUDGMENT DEBTOR :

- 1. RAJU PHILIP, AGE NOT KNOWN
S/O.K.C.PHILIP, MANUMAKAL HOUSE, K.K.R.R A-98,
CHEMPUMUKKU, THRIKKAKARA, KOCHI- 682 021.**
- 2. REV. FR.JACOB KOZHUVALIL, AGE NOT KNOWN,
S/O.LATE K.C.ANTONY, VICAR, ST. JOSEPH CHURCH
VAZHAKKALA, KOCHI- 682 021.**
- 3. M.O.KURIAN, AGE NOT KNOWN,
S/O.LATE KURIAKOSE, MOORKATTIL HOUSE, THRIKKAKARA P.O.,
KAKKANAD, ERNAKULAM DISTRICT- 682 030.**
- 4. JOSE PARAMBATHUSSERY, AGED 50 YEARS,
S/O.JOSEPH, KANAYANNUR TALUK, VAZHAKKALA,
ERNAKULAM- 682 021.**

**R1 TO R3 BY ADVS. SRI.RAJESH CHERIAN (CAVEATOR)
SRI.ANIL JOSEPH KOCHUPARAMBIL**

**THIS EXECUTION SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 03-12-2015, ALONG WITH Ex.SA.No.25 OF 2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

P.B.SURESH KUMAR, J.

Ex.S.A.Nos.24 & 25 of 2015

Dated this the 3rd day of December , 2015

JUDGMENT

Respondents 1 to 3 obtained a decree for eviction of a shop room from the fourth respondent. Pursuant to the decree, when the fourth respondent was sought to be evicted from the shop room through the process of the court, the appellant filed an application before the execution court claiming independent right over the shop room sought to be evicted. The execution court dismissed the application and the decision of the execution court has been confirmed in appeal. Hence this appeal challenging the said order of the execution court as confirmed in appeal.

2. When this matter was taken up for hearing, the learned counsel for the appellant did not raise any

arguments on merits. Instead, he pleaded for time to surrender vacant possession of the shop room to respondents 1 to 3. The learned counsel for respondents 1 to 3 indicated that said respondents may not have any objection in granting reasonable time to the appellant to surrender vacant possession of the shop room.

3. The appellant is running a jewellery in the shop room in question. As such, I deem it appropriate to grant time upto 31.5.2016 to the appellant to surrender vacant possession of the shop room to respondents 1 to 3 on terms.

In the result, the Execution Second Appeals are dismissed. However, the appellant is granted time upto 31.5.2016 to surrender vacant possession of the shop room in question on condition that the appellant shall file an unconditional undertaking before the execution court to surrender vacant possession of the shop room in question to

respondents 1 to 3 on or before 31.5.2016. The undertaking as referred to above shall be filed within two weeks from the date of receipt of a copy of this judgment. If the undertaking as directed above is filed within the time stipulated, further proceedings in the execution petition shall be deferred by the execution court till that time. All the interlocutory applications in the appeals are closed.

P.B.SURESH KUMAR, JUDGE.

smm