

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

OP(C).No. 140 of 2015 (O)

I.A.NO.4810/2014 IN A.S.NO.53/2014 OF THE ADDITIONAL DISTRICT COURT,
TIRUR

PETITIONER(S)/RESPONDENT :

- * 1. THAZHATHEVEETIL MOIDEEN,
S/O.ABOOBACKER, THAZHATHEVEETIL HOUSE,
MOONNIYOOR AMSOM DESOM, MOONNIYOOR(PO), PIN- 676 311,
TIRURANGADI TALUK, MALAPPURAM DISTRICT.(DIED)

ADDITIONAL P2 TO P8 IMPEADED

2. BEEYATHUTTI,
W/O.THAZHATHEVEETIL MOIDEEN.
3. NAFEESA,
W/O.THAZHATHEVEETIL MOIDEEN.
4. HAFSATH,
D/O.THAZHATHEVEETIL MOIDEEN.
5. HANAN,
S/O.THAZHATHEVEETIL MOIDEEN.
6. AFRATH,
D/O.THAZHATHEVEETIL MOIDEEN.
7. HASEENA,
D/O.THAZHATHEVEETIL MOIDEEN.
8. NIZAMUDHEEN,
S/O.THAZHATHEVEETIL MOIDEEN.

ALL THE PETITIONERS 2 TO 8 ARE RESIDING AT
THAZHATHEVEETIL HOUSE, MOONNIYOOR AMSOM DESOM,
MOONNIYOOR (P.O), TIRURANGADI TALUK, MALAPPURAM DISTRICT.

THE PETITIONERS 3 TO 7 ARE REPRESENTED BY THE 8TH
PETITIONER NIZAMUDHEER, S/O.THAZHATHEVEETIL MOIDEEN,
THAZHATHEVEETIL HOUSE, MOONNIYOOR AMSOM DESOM,
MOONNIYOOR (P.O), TIRURANGADI TALUK, MALAPPURAM DISTRICT.

- * ADDITIONAL PETITIONERS 2 TO 8 ARE IMPEADED AS THE LEGAL HEIRS OF
THE DECEASED PETITIONER AS PER ORDER DATED 07.12.2015 IN
I.A.NO.17434/2015

BY ADV. SRI.JAMSHEED HAFIZ

OP(C).No. 140 of 2015 (O)

RESPONDENT(S)/APPELLANT AND 1ST RESPONDENT :

1. K.ABDUL MAJEED,
S/O.KAMBRAN MOHAMMED HAJI, KOOMANNA, OLAKARA(PO),
TIRURANGADI TALUK, MALAPPURAM DISTRICT- 676 306.
2. VADAKKEPURATH SHAHUL MAHEED,
S/O.MOHAMMED HAJI, MOONNIYOOR AMSOM DESOM,
MOONNIYOOR(PO), TIRURANGADI TALUK,
MALAPPURAM DISTRICT- 676 311.

R1 BY ADVS. SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 10-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: A TRUE COPY OF THE JUDGMENT OS 103/2010 BEFORE THE SUB COURT TIRUR DATED 31.01.2014.**
- P2: A TRUE COPY OF THE APPEAL MEMORANDUM IN A.S.53/2014 BEFORE THE DISTRICT COURT MANJERI DATED 03.04.2014.**
- P3: A TRUE COPY OF THE ORDER IN I.A.4810/2014 IN A.S.53/2014 BEFORE THE ADDITIONAL DISTRICT COURT TIRUR.**
- P4: A TRUE COPY OF THE CALCULATION STATEMENT FILED BY THE 1ST RESPONDENT BEFORE THE APPELLATE COURT DATED 10.11.2014.**
- P5: A TRUE COPY OF THE STATEMENT FILED BY THE PETITIONER DATED 29.11.2014.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. ABRAHAM MATHEW, J.

O.P.(C)No. 140 of 2015

Dated this the 10th day of December, 2015

J U D G M E N T

Petitioner was the second plaintiff in OS.103 of 2010 which was filed for eviction and arrears of rent against the first respondent/first defendant. The suit has been decreed. The first respondent has challenged the decree in AS.53 of 2014 of Additional District Court, Tirur. The court has passed an order directing the first respondent to pay the admitted arrears of rent. The prayer in this O.P is to direct the first respondent to deposit the arrears of rent at the rate of Rs.25,000/- (Rupees twenty five thousand only) per month from September 2009 as a condition for granting stay of the execution of the decree. There is also a prayer to direct the District Judge to dispose of the appeal without delay.

2. Heard.

3. In this OP this court cannot decide the rate of rent that is payable or the date from which it is in arrears. So the first prayer cannot be allowed.

4. The first respondent has no objection to the second prayer being granted.

In the result, this OP is allowed in part. The appellate court is directed to dispose of the appeal before the court closes for summer vacation in 2016.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge