

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

OP(C).No. 209 of 2015 (O)

(O.S.228/2014 OF MUNSIFF COURT, ETTUMANOOR

PETITIONERS/PETITIONERS/DEFENDANTS:

1. MR. AJAYAKUMAR R @ GUINNESS PAKRU,
S/O. RADHAKRISHNA PILLAI,
AKSHAYA HOUSE, S.H. MOUNT P.O.,
KOTTAYAM - 686 006.
2. RADHAKRISHNAN PILLAI, S/O. NARAYANA PILLAI,
AKSHAYA HOUSE, S.H. MOUNT P.O.,
KOTTAYAM - 686 006.

BY ADV. SRI.T.K.RAJESHKUMAR

RESPONDENTS/COUNTER PETITIONERS/PLAINTIFFS:

1. ACCOMMODATION CONTROLLER (TAHASILDAR),
TALUK OFFICE, NEAR THIRUNAKKARA MAHADEVA TEMPLE,
KOTTAYAM - 686 001.
2. THE DISTRICT COLLECTOR, COLLECTORATE BUILDING,
KOTTAYAM - 686 002.
3. ALPH T THOPPURATHU, S/O. JOSE THOMAS,
THOPPURATHU HOUSE, VILLOONNI P.O.,
KOTTAYAM TALUK, KOTTAYAM - 686 008.
4. MOLLYKUTTY THOMAS, W/O. THOMAS,
THOPPURATHU HOUSE, VILLOONNI P.O.,
KOTTAYAM TALUK, KOTTAYAM - 686 008.
5. ELPH THOPPURATHU,
S/O. JOSE THOMAS,
THOPPURATHU HOUSE, VILLOONNI P.O.,
KOTTAYAM TALUK, KOTTAYAM - 686 008.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.(C) 209/2015

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF FIR REGISTERED BY GANDHINAGAR POLICE STATION, KOTTAYAM IN CRIME No.1132/2014.
- EXT. P2 : COPY OF DISMISSAL ORDER DTD. 31.10.14 IN W.P.(C) 28757/2014 OF THIS COURT.
- EXT. P3 : COPY OF PETITION DTD. 10.11.14 FILED BY RESPONDENT Nos.3 TO 5 BEFORE ACCOMMODATION CONTROLLER (TAHASILDAR), KOTTAYAM.
- EXT. P4 : COPY OF NOTICE DTD. 18.11.14 FOR APPEARANCE ISSUED BY ACCOMMODATION CONTROLLER (TAHASILDAR), KOTTAYAM.
- EXT. P5 : COPY OF PLAINT IN O.S.228/2014 FILED BY RESPONDENTS Nos.3 TO 5 BEFORE MUNSIF COURT, ETTUMANOOR.
- EXT. P6 : COPY OF DIRECTION PETITION FILED BY PETITIONER BEFORE MUNSIF COURT, ETTUMANOOR AS I.A.134/2015.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. To Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.209 OF 2015

Dated this the 23rd day of January, 2015.

J U D G M E N T

The limited prayer in this original petition is for a direction to the Munsiff Court, Ettumanoor to take up I.A.No.134/2015 in O.S.No.228/2014 pending before that court and dispose it of on merits and in the meantime stay all further proceedings pending before the Accommodation Controller (Tahasildar), Kottayam.

2. The 1st petitioner who is the owner of the premises let out the same to respondents 3 to 5. The petitioners have got a case that respondents 3 to 5 were evicted from the premises in accordance with law. However, tenants kept certain articles in the premises which they were asked to remove. There was objection from the side of respondents 3 to 5 and it seems that they have filed a police complaint also. Whatever that be, strangely enough, respondents 3 to 5 moved the Accommodation Controller seeking certain reliefs. The 1st petitioner appeared before the Accommodation Controller and appraised him about

his lack of jurisdiction to proceed with the matter. In the meanwhile, O.S.No.228/2014 has been filed by respondents 3 to 5 seeking restoration of premises from which they were duly evicted. The petitioners then moved I.A.No.134/2015 before the Munsiff Court, Ettumanoor pointing out that Accommodation Controller is intending to proceed with the matter for which he has no jurisdiction and the issue may be heard and appropriate order may be issued. The complaint is that, that petition is pending and in the meanwhile, Accommodation Controller is proceeding with the matter for which he has no jurisdiction.

3. After having heard the learned counsel for the petitioners and also after having perused the records, there seems to be some substance in the complaint voiced by the petitioners. Whatever that be, the limited prayer one being disposal of the petition before the Munsiff Court, Ettumanoor, it is felt that no prejudice will be caused to respondents 3 to 5 and in the nature of the order that is proposed to be passed, notice to the respondents is unnecessary.

This original petition is allowed. Munsiff Court, Ettumanoor is directed to take up I.A.No.134/2015 in O.S.No.228/2014 and dispose of the same on merits and in accordance with law as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. In the meanwhile, proceedings pending before the Accommodation Controller shall stand stayed.

Sd/-

P.BHAVADASAN
JUDGE

smp