

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

OP(C).No. 321 of 2015 (O)

I.A. NO.2003/2014 IN OS. NO.243/2008 OF ADDITIONAL MUNSIF COURT, KOCHI.

.....

PETITIONER/DEFENDANT:

B. RAVI, S/O.LATE KRISHNAN BAHAN,
AGED 47 YEARS, C.C. NO. 5/965,
SREE KRISHNA SWAMI DEVASWOM COMPOUND,
GOPALAKRISHNA AVENUE ROAD, KOCHI-682 002.

BY ADV. SRI.G.KRISHNAKUMAR.

RESPONDENT/PLAINTIFF:

SREEKRISHNASWAMI DEVASWOM,
HAVING OFFICE AT C.C.NO. 5/977,
GOPALAKRISHNA AVENUE ROAD, KOCHI-682 002,
REPRESENTED HEREIN BY ITS TRUSTEE
SRI.PANDURANG K., PARANJPE,
S/O LATE K.V. PARANJPE, AGED 54 YEARS,
RESIDING AT C.C. NO.5/972, G.K. AVENUE ROAD,
KOCHI-682 002.

BY ADVS. SRI.S.VINOD BHAT,
SRI.LEGITH T.KOTTAKKAL.

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER/ DEFENDANT IN O.S.243/2008 ON THE FILE OF ADDITIONAL MUNSIF COURT, KOCHI.**
- EXHIBIT P2: TRUE COPY OF THE IA NO. 2003/2014 IN O.S. NO. 243/2008 ON THE FILE OF ADDITIONAL MUNSIF COURT, KOCHI.**
- EXHIBIT P3: TRUE COPY OF THE COUNTER AFFIDAVIT FILED IN EXHIBIT P2 PETITION IN IA NO. 2003/2014 IN O.S. NO. 243/2008 BY THE RESPONDENT.**
- EXHIBIT P4: TRUE COPY OF THE COMMISSION REPORT IN IA NO.2190/2014 IN OS NO.243/2008 ON THE FILE OF ADDITIONAL MUNSIF COURT, KOCHI.**
- EXHIBIT P4(A): TRUE COPY OF THE SKETCH IN I.A.NO.2190/2014 IN O.S.NO. 243/2008 ON THE FILE OF ADDITIONAL MUNSIF COURT, KOCHI.**
- EXHIBIT P5: TRUE COPY OF THE ORDER DATED 16.01.2015 IN I.A. NO. 2003/2014 IN O.S. NO.243/2008 ON THE FILE OF ADDITIONAL MUNSIF COURT, KOCHI.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

PA. TO JUDGE

rs.

B.KEMAL PASHA, J.

=====

O.P.(C).No.321 of 2015

=====

Dated this the 3rd day of July, 2015

J U D G M E N T

Through Exhibit P5 order, the court below has dismissed the application filed by the petitioner seeking amendments to the written statement. According to the petitioner, the earlier counsel, who was appearing for the petitioner, had filed the written statement and thereafter he stopped practice. When the petitioner entrusted the matter with the present Lawyer, it could be traced out that the defence of “Kudikidappukaran”, which ought to have been taken in the normal course, has not been taken up in the written statement. Therefore, I.A.No.2003 of 2014 was filed

for incorporating such contentions also in the written statement.

2. Heard learned counsel for the petitioner and the learned counsel for the respondent.

3. The Commissioner's report has also been produced by the petitioner along with the O.P. It seems that the portion occupied by the petitioner, on which he claims tenancy, is a portion of a large building. It can be seen that two other tenants also are occupying the remaining portions of the building. At any stretch of imagination, it cannot be said that the schedule building, which forms part of a very large building, is a hut within the meaning of the Kerala Land Reforms Act. Even if the said amendment is permitted, the defendant is not going to gain anything at all apart from enabling him to purchase time.

4. The court below has rightly dismissed the I.A. As any such question does not arise in the matter. There is absolutely nothing to interfere with the said order. It has come out that the evidence has been commenced before

the court below and the petitioner did not cross-examine the plaintiff in the case due to the pendency of the present O.P. In such case, the court below shall give an opportunity to the petitioner to cross-examine the plaintiff and the witnesses, if any, of the plaintiff and to adduce evidence on the side of the petitioner.

With the said observation this Original Petition (Civil) is closed.

Sd/-

B.KEMAL PASHA
JUDGE