

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

OP(C).No. 1770 of 2015 (O)

I.A. NO. 697/2015 IN OS NO. 169/2015 OF MUNSIFF COURT, THODUPUZHA

PETITIONER :

**E.K.JOHN, AGED 64 YEARS
S/O.KORAH, ELLICKAL HOUSE, KOLANI KARA
THODUPUZHA VILLAGE-685584.**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN
SRI.M.D.SASIKUMAR
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G.
SRI.DIPU JAMES**

RESPONDENT :

**BABU SACHARIA,
S/O.LATE SACHARIA, AGED 58 YEARS
KOONAMMAKKAL HOUSE, MYLACOMBU KARA
KUMARAMANGALAM VILLAGE, THODUPUZHA TALUK-685584.**

**BY ADVS. SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 14-12-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

OP(C).No. 1770 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 TRUE COPY OF I.A. NO.697 OF 2015 IN O.S.169 OF 2015 DTD.08.05.2015
OF THE MUNSIFF COURT, THODUPUZHA.
- EXT. P2 TRUE COPY OF THE OBJECTIONS DTD.12.06.2015 IN I.A.697 OF 2015 IN
O.S.169 OF 2015.
- EXT. P3 TRUE COPY OF ORDER DATED 10.07.2015 IN I.A.697 OF 2015 IN
O.S.169 OF 2015 OF THE MUNSIFF'S COURT, THODUPUZHA.
- EXT. P4 COPY OF ORDER DTD. 14.5.2015 PASSED BY LEARNED DISTRICT
COURT (VACATION COURT), THODUPUZHA IN IA. NO. 867 OF 2015.

RESPONDENT(S)' EXHIBITS :

- EXT. R(1) COPY OF THE PLAINT IN OS NO. 169 OF 2015 BY MR. RAJESH UNDER
THE RTI ACT.
- EXT. R(2) COPY OF THE CHELLAN RECEIPTS.
- EXT. R(3) COPY OF THE INFORMATION RECEIVED FROM PUBLIC INFORMATION
OFFICER, THODUPUZHA, MUNICIPALITY.
- EXT. R(4) COPY OF THE INFORMATION RECEIVED FROM PUBLIC INFORMATION
OFFICER, POLICE STATION, THODUPUZHA.

//TRUE COPY//

P.A. TO JUDGE

Mn

K. ABRAHAM MATHEW, J.

O.P.(C).No. 1770 of 2015

Dated this the 14th day of December, 2015

J U D G M E N T

The petitioner is the plaintiff in OS.169 of 2015 of Munsiff Court, Thodupuzha. The suit is for arrears of rent. The respondent is his lessee. The rate of rent claimed is Rs.70,000/- (Rupees seventy thousand only) per month. The total amount claimed in the suit is about Rs.4 lakhs. Along with the plaint he filed an application under Order 38 Rule 5 CPC. This has been dismissed by the learned Munsiff. Its correctness is challenged.

2. Heard.

3. Admittedly, the respondent has given the petitioner Rs.7,50,000/- (Rupees seven lakhs fifty thousand only) as security. Learned counsel for the respondent submits that pursuant to the orders passed by the rent control court the respondent has deposited Rs.1,00,000/- (Rupees one lakh only) also. The security amount is almost double the amount that has been claimed in the suit. The learned Munsiff rightly dismissed the application under Order 38 Rule 5 CPC. Learned

counsel for the petitioner submits that this court may pass an order for appropriation of the security amount. It is a matter to be agitated in appropriate proceedings.

In the result, this OP is dismissed.

sd/-

**K. ABRAHAM MATHEW
JUDGE**

R.AV

//True Copy//

PA to Judge