

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

OP(C).No. 2208 of 2015 (O)

PETITIONER :

**RAMESH MENON
S/O.UNNIKRISHNA MENON, AGED 45 YEARS
THUSHARA, EDUTHIL LANE
CHEEYARAM, THRISSUR.**

BY ADV. SRI.PAULSON THOMAS

RESPONDENT(S) :

- 1. C.MOHANAN, AGED 62 YEARS
BHAMALAYAM, POOKODU, BHAGAVATHI NADA
NEYATTINKARA-695 141.**
- 2. DHANUSH, AGED 27 YEARS
S/O.C.MOHANAN, BHAMALAYAM, POOKODU
BHAGAVATHI NADA, NEYATTINKARA-695 141.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 18-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

OP(C).No. 2208 of 2015 (O)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P-1: TRUE COPY OF THE ORDER DATED 13.8.2015 IN I.A. NO.1147/2014 IN A.S. NO.108/2014 PASS BY THE SUB COURT, NEYYATTINKARA.
- EXT.P-2: TRUE COPY OF THE JUDGEMENT DATED 30.6.2014 IN O.S.NO.481/2011 OF THE MUNSIF COURT, NEYYATTINKARA.
- EXT.P-3: TRUE COPY OF EXECUTION PETITION AS E.P NO.224/2014 IN O.S.NO.481/2011 FILED BY THE RESPONDENTS BEFORE THE MUNSIF COURT, NEYYATTINKARA DATED 10.11.2014.
- EXT.P-4: TRUE COPY OF THE MEMORANDUM OF APPEAL A.S.NO.108/2014 FILED BY THE PETITIONER BEFORE THE SUB COURT, NEYYATTINKARA DATED 7.11.2014.
- EXT.P-5: TRUE COPY OF THE COMMISSION REPORT PREPARED BY THE ADVOCATE COMMISSIONER IN O.S.NO.481/2011 OF THE MUNSIF COURT, NEYYATTINKARA.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. ABRAHAM MATHEW, J.

O.P.(C)No.2208 of 2015

Dated this the 18th day of September, 2015

J U D G M E N T

Petitioner is the plaintiff in O.S.No.481 of 2011 and the respondents are the defendants. The plaint schedule property belongs to the latter. The latter allowed the former to occupy the property on the basis of a licence agreement. On the allegation that the respondents had the intention to evict the appellant by force, the petitioner instituted the suit for perpetual injunction. The first respondent raised a counter claim. He prayed for eviction of the appellant. The suit was dismissed and the counter claim was allowed. The appellant has filed two appeals, AS.No.108 of 2014 and AS.No.109 of 2014 in the court of Sub Judge, Neyyattinkara. In AS.No.108 of 2014 he filed an application to stay execution of the decree passed in favour of the first respondent in his counter claim. BY Ext.P1 order the learned Sub Judge has dismissed it. The correctness of the dismissal is assailed.

2. Heard the learned counsel for the appellant. Admittedly, the transaction between the appellant and the

respondents is a licence only. A licensee cannot claim possession, he has only occupation. The licence can be terminated any time. If the termination is illegal the only remedy is to seek for compensation.

3. In this case the prayer in the O.P is to restrain the first respondent from evicting the first appellant licensee. The trial court has passed a decree for eviction. If after termination of the licence the licensee does not vacate the property, the licensee is entitled to seek for a mandatory injunction; even a suit for recovery of possession is unnecessary. So even if it is assumed that the decree in favour of the first respondent is not legal the appellant cannot be allowed to continue in occupation of the plaint schedule property. I do not find anything illegal or irregular in Ext.P1 order passed by the learned Sub Judge.

In the result, this O.P is dismissed.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge