

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

RSA.No. 66 of 2015 ()

AGAINST THE JUDGMENT IN A.S.NO. 9/2011 of PRINCIPAL SUB COURT,IRINJALAKUDA
DATED 29-11-2014

AGAINST THE JUDGMENT IN O.S.NO. 986/2008 of MUNSIF COURT, KODUNGALLUR
DATED 30.11.2010

APPELLANT(S)/APPELLANT BEFORE THE SUB COURT/DEFENDANT:

ABDUL RAHIMAN @ ABDUL RAHIM, AGED 83 YEARS
S/O.LATE MANANGERI VEETIL KUNJUMOIDEEN, KARA DESOM
EDAVILANGU VILLAGE, KODUNGALLUR THALUK
THRISSUR DISTRICT.

BY ADVS.SRI.K.S.RAJESH
SRI.M.SHAJU PURUSHOTHAMAN

RESPONDENT(S)/PLAINTIFFS/RESPONDENTS BEFORE THE SUB COURT:

1. VAHIDA, AGED 48 YEARS
W/O.NAMBIPUNNILATH VEETIL KUNJUMOIDEEN HAJI @ N.A.K.HAJI
EDAVILANGU VILLAGE AND DESOM, KODUNGALLUR THALUK
THRISSUR DISTRICT, PIN-680 671.
2. SHAHANA ARSHAD, AGED 24 YEARS
D/O.NAMBIPUNNILATH VEETIL KUNJUMOIDEEN HAJI @ N.A.K.HAJI
EDAVILANGU VILLAGE AND DESOM, KODUNGALLUR THALUK
THRISSUR DISTRICT, PIN-680 671.
3. SHAFNA SHAMSHEED, AGED 23 YEARS
D/O.NAMBIPUNNILATH VEETIL KUNJUMOIDEEN HAJI @ N.A.K.HAJI
EDAVILANGU VILLAGE AND DESOM, KODUNGALLUR THALUK
THRISSUR DISTRICT, PIN-680 671.
4. SHAHID, AGED 24 YEARS
S/O.NAMBIPUNNILATH VEETIL KUNJUMOIDEEN HAJI @ N.A.K.HAJI
EDAVILANGU VILLAGE AND DESOM, KODUNGALLUR THALUK
THRISSUR DISTRICT, PIN-680 671.

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
22-01-2015, ALONG WITH R.S.A.NO.67 OF 2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

A.HARIPRASAD, J.

R.S.A. Nos.66 & 67 of 2015

Dated this the 22nd day of January, 2015

COMMON JUDGMENT

In both the these second appeals, the common question of law arising for consideration is regarding the sufficiency of notice under Section 106 of the Transfer of Property Act, 1882 (in short, "the Act"). The appellants are tenants under the respondents in respect of two shoprooms in the same building. The building is situated in an area not covered under the Kerala Buildings (Lease and Rent Control) Act, 1965. The respondents caused to issue statutory notices under Section 106 of the Act terminating the tenancy. Thereafter, they claimed eviction of the shoprooms.

2. The appellants resisted the claim raising various contentions. The claims for arrears of rent made in the complaints are disputed. According to the appellants, they are not liable to be evicted and the notices issued under Section 106 of the Act are not valid. The trial court decreed the suits which were confirmed in appeals by the lower appellate court.

3. Heard the learned counsel for the appellants. I have carefully perused the records.

4. The only question cropping up for decision is regarding the

illegality and correctness of Ext.A1 notice in R.S.A.No.66 of 2015 and Ext.A2 notice in R.S.A.No.67 of 2015. Both these notices were issued by the landlords under Section 106 of the Act terminating tenancy with the end of the month of tenancy. There is a clear fifteen days time provided in the notices as per the Act. As per the findings of the courts below, there is no illegality or insufficiency in the statutory notices issued. The tenants cannot claim protection under the Kerala Buildings (Lease and Rent Control) Act, 1965 for the reason that there is no notification issued under the Act in respect of the area where the buildings are situated. The dispute regarding monetary claims were also properly considered by the courts below. I find no question of law, leave alone a substantial question of law in this appeal. Learned counsel for the appellants submitted that the appellants are running cycle repairing shops in the tenanted rooms. Learned counsel requested for six months time for vacating the rooms.

5. Considering the facts and circumstances, I am of the view that four months time can be given to the appellants to vacate the shoprooms in the event they file separate affidavits before the trial court undertaking to vacate the shoprooms without any demur, within a period of four months from today. In that event, the trial court shall defer the execution of decrees for a period of four months from today.

With this observations, the appeals are dismissed.

All pending interlocutory applications will stand dismissed.

A. HARIPRASAD, JUDGE.

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