

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

RSA.No. 188 of 2015 ()

AGAINST THE JUDGMENT IN AS 5/2007 of SUB COURT, TIRUR DATED 26.09.2014

**AGAINST THE JUDGMENT IN OS 3/1996 of MUNSIFF COURT, PARAPPANANGADI
DATED 30.11.2006**

APPELLANT/IST RESPONDENT/IST DEFENDANT:

**P.K.KUNJALANKUTTY
NADUTHODI HOUSE, PANIKKOTTUMPADI
VELIMUKKU AMSOM DESOM, TIRUR -676 317.**

**BY ADVS.SRI.P.VIJAYAKUMAR
SRI.C.R.REGHUNATHAN
SRI.N.ARAVINDAN
SRI.M.V.ASHIM
SRI.R.BALAKRISHNAN
SRI.B.HARRYLAL
SRI.SUVIN.R.MENON**

**RESPONDENTS/APPELLANTS & 2ND RESPONDENT/PLAINTIFFS
& 2ND DEFENDANT:**

- 1. JAFFER SADHIQ
S/O.KUMMANTHODI HYDER MAMMAD HAJI, EDAYADI
VELIMUKKU AMSOM, TIRUR -676 317.**
- 2. JAMEELA
D/O.KUMMANTHODI HYDER MAMMAD HAJI, EDAYADI
VELIMUKKU AMSOM, TIRUR -676 317.**
- 3. PATHUMMA UMMA
W/O.KUMMANTHODI HYDER MAMMAD HAJI, EDAYADI
VELIMUKKU AMSOM, TIRUR -676 317.**
- 4. ABU SABAH
S/O.KUMMANTHODI HYDER MAMMAD HAJI, EDAYADI
VELIMUKKU AMSOM, TIRUR -676 317.**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON 26-11-2015,
ALONG WITH RSA. 273/2015 AND RSA 276/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

P.B.SURESH KUMAR, J.

R.S.A.Nos.188, 273 & 276 of 2015

Dated this the 26th day of November, 2015

JUDGMENT

These appeals are preferred challenging the common judgment in three appeals namely A.S.Nos.4/2007, 5/2007 and 6/2007 on the file of the Sub Court, Tirur. Among the said appeals, A.S.No.4/2007 is an appeal preferred against the decision in O.S.No.4/1996 and A.S.No.5/2007 is an appeal preferred against the decision in O.S.No.3/1996. Likewise, A.S.No.6/2007 is an appeal preferred against the decision in O.S.No.117/1996.

2. The suits referred to above on the file of the Munsiff Court, Parappanangady were instituted for eviction of the defendants who are the tenants in the three shop rooms owned by the common plaintiffs. The defendants, while admitting the tenancy arrangements with the predecessor of the plaintiffs, contended that the plaint schedule shop rooms are constructed in

the Government puramboke land and therefore, the plaintiffs, who have no rights in the suit property, are not entitled to the decree sought in the suits.

3. The trial court accepted the contention raised by the defendants and dismissed the suits. The plaintiffs took up the matter in appeals. The appellate court, placing reliance on Section 116 of the Evidence Act, held that the defendants having admitted the tenancy arrangements and having admitted that they obtained the premises from the predecessor of the plaintiffs, cannot be heard to contend that the plaintiffs have no title to the property. Consequently, the appeals were allowed and the suits were decreed as prayed for. The defendants in the suits have thus come up in these appeals.

4. Heard the learned counsel for the appellants.

5. The underlying policy of Section 116 of the Indian Evidence Act is that where a person has been brought into possession as a tenant by the landlord and if that tenant is permitted to question the title of the landlord, the same will give rise to extreme confusion in the matter of relationship of the landlord and tenant. As such, the appellate court is justified in allowing the appeals placing reliance on Section 116 of the Indian

Evidence Act.

The second appeals, in the circumstances, are devoid of merits and the same are, accordingly dismissed. All the interlocutory applications in the appeals are closed.

SD/-

**P.B.SURESH KUMAR,
JUDGE.**

JV