

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

RSA.No. 868 of 2015 ()

**(AGAINST THE JUDGMENT IN AS.NO. 82/2010 OF SUB COURT, TIRUR
DATED 10-04-2015)**

**(AGAINST THE JUDGMENT IN OS.NO. 148/2006 OF MUNSIFF COURT, TIRUR
DATED 15-01-2010)**

APPELLANT/APPELLANT/DEFENDANT :

**POTHENCHERI VIJAYAN, AGED 63 YEARS,
S/O. KRISHNAN NAMBIAR, GURUVAYOORAPPAN PICTURE MART,
KADAMPUZHA DEVASWOM BUILDING, KADAMPUZHA(P.O).,
MELMURI AMSOM DESOM, TIRUR TALUK,
MALAPPURAM DISTRICT.**

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENT(S)/RESPONDENTS/PLAINTIFFS :

**1. SREE KADAMPUZHA BHAGAVATHI TEMPLE DIETY,
REPRESENTED BY NEXT FRIEND SREE KADAMPUZHA
BHAGAVATHI DEVASWOM EXECUTIVE OFFICER,
A.MOHAN KUMAR, S/O. APPU, MELMURI AMSOM DESOM,
KADAMPUZHA(P.O).,PIN-676 553, TIRUR TALUK,
MALAPPURAM DISTRICT.**

**2. EXECUTIVE OFFICER,
SREE KADAMPUZHA BHAGAVATHI DEVASWOM,
MELMURI AMSOM DESOM, TIRUR TALUK,
MALAPPURAM DISTRICT-676 553.**

R1 & R2 BY ADV. SRI.K..MOHANAKANNAN

**THIS REGULAR SECOND APPEAL HAVING BEEN FINALLY HEARD
ON 13-10-2015, ALONG WITH R.S.A.NO. 869/2015 AND R.S.A.NO. 870/2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

P.B.SURESH KUMAR, J.

R.S.A.Nos.868, 869 & 870 of 2015

Dated 13th October, 2015.

J U D G M E N T

The second appeals arise from O.S.Nos.145, 146 and 148 of 2006 on the file of the Munsiff Court, Tirur. The defendants in the suits are the appellants. The common plaintiffs are Sree Kadampuzha Bhagavathi Temple ('the temple' for short) and its Executive Officer. The suits were instituted by the Executive Officer of the temple on behalf of the temple. The defendants in the suits are the tenants of three shop rooms owned by the temple. The case of the plaintiffs is that though the tenancies in respect of the shop rooms have been validly terminated, the defendants are refusing to surrender vacant possession of the shop rooms to the plaintiffs. The relief sought in the suits was a decree for eviction. The defendants remained ex parte. The trial court accepted the case of the plaintiffs and decreed the suits. However, the decision of the trial court was challenged by the defendants in appeals. The contention raised by the

defendants in the appeals was that the termination of the tenancies in respect of the suit premises was invalid as the Executive Officer of the temple who issued the notices of termination of tenancy was not authorised to do so. The appellate court, relying on the scheme formulated by the Deputy Commissioner of the Hindu Religious and Charitable Endowments Department for the administration of the temple, held that the Executive Officer being a person who is in administration of the temple and who is authorised to institute suits and other proceedings on behalf of the temple, is competent to terminate the tenancies as well. Consequently, the appeals were dismissed. The defendants who are aggrieved by the said decision have thus come up in these second appeals.

2. Heard the learned counsel for the appellants.

3. The learned counsel for the appellants reiterated the contention raised before the appellate court as indicated above. According to me, the defendants who have not filed written statements disputing the validity of the termination

notices, are not entitled to raise a contention in the appeals as to the validity of the notices terminating the tenancy. That apart, it is beyond dispute that the Executive Officer of the temple, who issued the notices of termination of tenancies, is a person who is in administration of the temple. The power to administer the affairs of the temple includes the power to issue notices for termination of tenancies in respect of the premises of the temple as well. In the said view of the matter, there is no illegality in the impugned decisions. The second appeals, in the circumstances, are devoid of merits and the same are, accordingly, dismissed *in limine*. All the interlocutory applications in the appeals are closed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)