

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

RSA.No. 876 of 2015 ()

**(AGAINST THE DECREE AND JUDGMENT IN AS.NO. 26/2011 OF ADDL. DISTRICT
COURT, TIRUR DATED 11-02-2015)**

**(AGAINST THE DECREE AND JUDGMENT IN OS.NO. 127/2006 OF SUB COURT,
TIRUR DATED 04-07-2008)**

APPELLANT/APPELLANT/PLAINTIFF:

**PULAKKOOTIL PUTHEN VEETIL KARTHYAYANI AMMA,
D/O. KUNCHIYAMMA, AGED 78 YEARS, EDAPAL AMSOM,
THALAMUNDA DESOM, P.O. EDAPAL, PONANI TALUK,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.CHANDRASEKHAR
SRI.SOORAJ T ELENJICKAL**

RESPONDENTS/RESPONDENTS/DEFENDANTS:

- 1. ANTHIKKOTTU MALIYEKKAL SUBHADRA, AGED 60 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM, THALAMUNDA DESOM,
EDAPAL P.O., -687 768, MALAPPURAM DISTRICT.**
- 2. BHAGHALAKSHMI, AGED 59 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM, THALAMUNDA DESOM,
EDAPAL P.O., -687 768, MALAPPURAM DISTRICT.**
- 3. NARAYANAN,S/O. KUNHAN CHEETIYAR,
EDAPAL AMSOM, THALAMUNDA DESOM,
EDAPAL P.O., -687 768, MALAPPURAM DISTRICT.**
- 4. AMMINI AMMA, AGED 55 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM,
THALAMUNDA DESOM, EDAPAL P.O.,-687 768,
MALAPPURAM DISTRICT.**
- 5. SANTHAKUMARI, AGED 53 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM, THALAMUNDA DESOM,
EDAPAL P.O., -687 768, MALAPPURAM DISTRICT.**
- 6. KANAKAMMA, AGED 51 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM, THALAMUNDA DESOM,
EDAPAL P.O., -687 768, MALAPPURAM DISTRICT.**

R.S.A.NO.876/2015

7. PARVATHY AMMA, AGED 49 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM,
THALAMUNDA DESOM, EDAPAL P.O., -687 768,
MALAPPURAM DISTRICT.
8. VISWANATHAN, AGED 45 YEARS,
D/O. KUNHAN CHEETIYAR, EDAPAL AMSOM,
THALAMUNDA DESOM, EDAPAL P.O., -687 768,
MALAPPURAM DISTRICT.

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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P.B.SURESH KUMAR, J.

R.S.A.No.876 of 2015

Dated this the 16th day of September, 2015

JUDGMENT

The plaintiff in a suit for damages is the appellant.

2. The plaintiff A schedule building was occupied by the defendants for quite a long time as tenants. The suit was filed for realization of compensation for the damage caused to the building during the period during which the defendants were occupying the building as tenants. The defendants contested the suit, contending inter alia, that no damage whatsoever was caused to the building by them. The trial court found that the plaintiff has not established that the damage to the building was caused by the defendants. The trial court also found that the plaintiff has not established that she had spent any amounts towards the repairs of the building, after obtaining possession of the building from the defendants. Consequently, the suit was

dismissed. In appeal, the appellate court on a reappraisal of the evidence on record, confirmed the decision of the trial court. The plaintiff who is aggrieved by the concurrent decisions of the courts below has thus come up in this second appeal.

3. Heard the learned counsel for the appellant.

4. The question as to whether the defendants have caused any damage to the building occupied by them as tenants is a pure question of fact. The courts below concurrently found the said question against the plaintiff. The plaintiff cannot challenge the correctness of the said finding in this second appeal filed under Section 100 of the Code of Civil Procedure. There is no substantial question of law involved in the second appeal and the same is accordingly dismissed *in limine*.

P.B.SURESH KUMAR, JUDGE.

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