

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

RSA.No. 936 of 2015

**AS 151/2013 OF ADDITIONAL DISTRICT COURT-II, MAVELIKKARA DATED 28-02-2015.
OS 129/2011 OF MUNSIF COURT, MAVELIKKARA DATED 27.07.2013.**

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APPELLANT(S)/APPELLANTS/DEFENDANTS:

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1. K.MURALI, AGED 51 YEARS,
S/O.KUNJUPILLAI, AKKANATTUKARA MURI,
THAZHAKKARA VILLAGE, MEVELIKARA TALUK,
KALLUMALA P.O., FROM PAIKKATTU THARAYIL HOUSE,
CHUNAKKARA NORTH MURI, CHUNAKKARA VILLAGE.
 2. SAJITHAMBA, AGED 48 YEARS, W/O.K.MURALI,
AKKANATTUKARA MURI, THAZHAKKARA VILLAGE,
MEVELIKARA TALUK, KALLUMALA P.O., FROM
PAIKKATTU THARAYIL HOUSE, CHUNAKKARA NORTH MURI,
CHUNAKKARA VILLAGE.

**BY ADVS.SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR**

RESPONDENT(S)/RESPONDENTS/DEFENDANTS:

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1. RAJENDRAN, S/O.NARAYANAN, AGED 64 YEARS,
RAJKOT, PALLICKAL NADUVILE MURI,
BHARANICKAVU VILLAGE, MAVELIKARA TALUK,
ALAPPUZHA DISTRICT, REPRESENTED BY POWER
OF ATTORNEY HOLDER, ANILKUMAR, S/O.DAMODARAN,
AGED 56 YEARS, RESIDING AT 1-B, KARTHIKA APARTMENT,
PALLIMUKKU, PETTA P.O., THIRUVANANTHAPURAM - 695 024.
 2. LEKHA RAJENDRAN, AGED 61 YEARS,
W/O.RAJENDRAN, RAJKOT, PALLICKAL NADUVILE MURI,
BHARANICKAVU VILLAGE, MAVELIKARA TALUK,
ALAPPUZHA DISTRICT, REPRESENTED BY POWER OF
ATTORNEY HOLDER, ANILKUMAR, S/O.DAMODARAN,
AGED 56 YEARS, RESIDING AT 1-B, KARTHIKA APARTMENT,
PALLIMUKKU, PETTA P.O., THIRUVANANTHAPURAM - 695 024.

R1 & R2 BY ADV. SRI.M.V.THAMBAN

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

R.S.A.No.936 of 2015

Dated this the 14th day of October, 2015

JUDGMENT

The defendants in a suit for eviction are the appellants.

2. The plaint schedule building was leased out by the plaintiffs to the first defendant originally for a period of 11 months from 10.2.2006 for the purpose of running a school. Later, the lease was extended from time to time. The last extension of the lease was on 10.4.2010 for a period of 11 months, on the defendants agreeing to pay rent at the rate of Rs.3,500/- per month. After the expiry of the said period of lease, the suit was filed for eviction of the defendants. Though the defendants raised various contentions, all the contentions raised by them have been turned down by the trial court. The matter was taken up by the defendants in appeal. The appellate

court also, on a reappraisal of the materials on record, confirmed the decision of the trial court. The defendants have thus come up in the second appeal challenging the concurrent decisions against them.

3. Heard the learned counsel for the appellants as also the counsel for the respondents who appeared through caveat.

4. When the matter was taken up for hearing, the learned counsel for the appellants submitted that the defendants are prepared to surrender vacant possession of the plaint schedule building to the plaintiffs, if they are given a reasonable time to make alternate arrangements for running the school in a different premises. The learned counsel for the respondents did not oppose the said prayer made by the learned counsel for the appellants.

In the result, the second appeal is dismissed in limine. However, having regard to the fact that a school is being run by the defendants in the tenanted premises, I deem it appropriate to grant to the defendants time till 31.3.2016 to vacate the plaint schedule building and deliver vacant possession

of the same to the plaintiffs on the following terms :

- i. The defendants shall pay the arrears of rent, if any, to the plaintiffs, within six weeks from today.
- ii. The defendants shall file an affidavit before the trial court/execution court, within six weeks from today, unconditionally undertaking to surrender vacant possession of the plaint schedule building, on or before 31.3.2016.
- iii. The defendants shall pay to the plaintiffs, the charges towards use and occupation of the building equivalent to the current rent from today till they give vacant possession of the building to the plaintiffs.

Execution proceedings, if any, pending shall be kept in abeyance till 31.3.2016. If there is default in performing any of the aforesaid conditions, the benefits given to the defendants as per this judgment will automatically stand recalled and the executing

court shall effect delivery forthwith. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

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