

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. 995 of 2015 ()

**(AGAINST THE JUDGMENT AND DECREE IN AS.NO.31/2010 OF SUB COURT,
CHENGANNUR DATED 18-03-2015)**

**(AGAINST THE JUDGMENT AND DECREE IN OS.NO. 161/2007 OF MUNSIFF COURT,
CHENGANNUR DATED 30-07-2010)**

APPELLANT/APPELLANT/PLAINTIFF:

**K.K.LEELAMMA, AGED 61 YEARS,
D/O. PANKAJAKSHIAMMA, KARTHIKAYIL VEETIL,
ANGADICKAL MURI, CHENGANNUR VILLAGE,
FROM KANJIRAKKATTU VEEDU, THIRUVANVANDOOR.**

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

RESPONDENTS/RESPONDENTS/DEFENDANTS:

- 1. STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR,
ALAPUZHA-688 001.**
- 2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, ALAPPUZHA-688 001.**

R1 BY GOVERNMENT PLEADER SMT. DEEPA.G.N.

**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. 995 of 2015

Dated this the 16th day of September, 2015

JUDGMENT

The plaintiff in the suit is the appellant.

2. The plaintiff has been allotted an industrial plot by the Industries Department of the State Government in accordance with Ext.A1 hire purchase agreement. The total extent of the land allotted was 20 cents. At the time of allotment, the plaintiff has remitted a portion of the sale consideration and agreed to pay the balance sale consideration in ten yearly instalments on or before 28.12.1999. The plaintiff however has not paid the balance sale consideration as agreed. Consequently, proceedings were initiated to resume the land allotted to the plaintiff. The suit was instituted then seeking a decree of prohibitory injunction restraining the defendants from resuming the

land. The defendants resisted the suit contending that the plaintiff has been allotted the industrial plot for running an industry; that the plaintiff should have paid the sale consideration in ten equal yearly instalments as per the terms of Ext.A1 hire purchase agreement; that the plaintiff has not remitted any amount towards balance sale consideration as agreed; that the plaintiff is not running any industry in the plot; that the plaintiff is making use of the industrial plot allotted to her for her residential purposes and that therefore, the plot allotted to her is liable to be resumed.

3. The trial court found that the plaintiff having violated the terms of Ext.A1 hire purchase agreement is not entitled to the discretionary relief of injunction claimed in the suit. The appellate court, on a re-appraisal on the materials on record, confirmed the decision of the trial court. While arriving at the aforesaid conclusion, both the courts below found that the plaintiff is not running any industry in the industrial plot allotted to her and that she is

making use of the industrial plot allotted to her for residential purposes. The plaintiff is aggrieved by the said decisions of the courts below.

4. Heard the learned counsel for the appellant.

5. The learned counsel for the appellant submits that the plaintiff is prepared to pay the entire amounts payable to the Government and prayed for indulgence.

6. The plaintiff has been allotted the industrial plot which is the subject matter of the suit as per the terms of Ext.A1 hire purchase agreement. Ext.A1 agreement categorically recites that if the terms of the said agreement are violated, the the allotted land is liable to be resumed. The plaintiff has no case that she has remitted the amounts payable as per terms of Ext.A1 agreement. In other words, the fact that the plaintiff has committed breach of the terms of Ext.A1 agreement is admitted. In the light the aforesaid facts, the courts below cannot be faulted for having declined the discretionary relief of injunction to the plaintiff. The second appeal, in the circumstances, is devoid of merits and

the same is accordingly dismissed *in limine*. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

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