

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

WP(C).No. 7184 of 2009 (P)

PETITIONER(S):

**K.V.IRSHAD, S/O. ABDUL HAMEED,
AGED 21 YEARS, KOONAMVEETIL HOUSE, VELIMUKKU,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

RESPONDENT(S):

**MEENAGADI GRAMA PACHAYATH,
REPRESENTED BY ITS SECRETARY, MEENANGADI,
WAYNAD DISTRICT.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 7184 of 2009 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE LEASE AGREEMENT DTD.1.4.2007 ENTERED INT
BETWEEN THE PETITIONER AND THE RESPONDENT.**

**EXT.P2: TRUE COPY OF THE INTERIM ORDER IN WP(C) NO.11366/2008 DTD.3.4.2008
OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 7184 of 2009

Dated this the 15th day of September, 2015

J U D G M E N T

The petitioner has taken a shop room in a building owned by the respondent panchayath as per Ext.P1 lease agreement. After taking the shop room for lease, the petitioner had started a fancy store on a small scale basis. The rent to be paid was ₹4,043/- per month. It was payable before the 10th day of every month. The petitioner alleges though he has been paying monthly rent regularly, he never demanded receipts and as a result, the panchayath asked the petitioner to pay rent for 10 months with interest stating that he had defaulted the payment of rent. According to the petitioner, since no receipts have been issued against payments of rent and he has no evidence to prove remittance, he has agreed to pay the amount. However, he requested time to pay the same, which was not granted by the panchayath. When

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attempts were made to seal the shop and the petitioner was informed that his lease agreement will not be renewed for the next year, which, according to the petitioner, was contrary to the terms of Ext.P1 agreement, he had approached this Court with WP(C) No.11366/2008; and this Court, vide Ext.P2 order, granted an interim stay on condition that the petitioner shall pay an amount of ₹10,000/- on or before 15.04.2008 and another ₹10,000/- on or before 01.05.2008. After Ext.P2 order was passed, petitioner has complied with the directions and remitted the amounts as directed by this Court. As there was dispute regarding the penal interest, the amounts due as on 01.05.2008 was not paid. The said writ petition is pending and the petitioner is waiting for the orders to be passed in the writ petition. The petitioner alleges that when the petitioner wanted to pay the monthly rents from June 2008 onwards, the respondent did not accept the same and has taken a stand that unless the amount demanded with penal

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interest is not paid, the rent from June, 2008 would not be accepted; and hence, the petitioner could not pay the rent every month. The petitioner further alleges that now, the petitioner was asked to remit the total rent of an amount of ₹48,516/- with 50% penal interest; and without issuing a demand notice, probably due to the reason of the pendency of the writ petition, now again the respondent had threatened the petitioner that he would be evicted from the premises. According to the petitioner, he was all along ready to pay the monthly rent; and however, due to the stand taken by the Secretary that he would take rent only after the disposal of the writ petition, the petitioner could not pay the rent. If a demand is made to pay the entire amount in lump with penal interest, the petitioner may not be able to do so. The petitioner points out that the Kerala Panchayath Raj (Granting of Remission to Contractors and Lessees) Rules, 1998, provides for the powers of the Secretary to grant remissions and also permitting a lessee to remit the

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amounts in instalments contained in Rule 4 of the said Rules. The petitioner's grievance is that even though the petitioner had made a request for the same, the same has not been given to the petitioner. Hence, this writ petition.

2. Though notice has been served on the respondent panchayath, they have not entered appearance.

3. It is evident from Ext.P2 that the petitioner has approached this Court when there was threat of eviction from the respondent. However, this Court directed the petitioner to remit ₹10,000/- by 15.04.2008 and to remit another ₹10,000/- by 01.05.2008. The petitioner points out that in spite of the said order, the respondent did not receive the amount and they were demanding penal interest at the rate of 50%. However, no demand notice has been issued. The grievance of the petitioner is that the respondent has threatened him that he would be evicted from the premises. It is submitted that the

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petitioner was ready and willing to pay the monthly rent. However, the stand taken by the Secretary is that the rent would be taken only after the disposal of the writ petition.

As the petitioner is ready to remit the entire arrears and interest, it shall be open to the petitioner to pay the entire rent, if any, in six equal monthly instalments starting from 01.10.2015; and in the event of remittance, the respondent shall receive the same. The respondent shall not evict the petitioner except under due process of law.

The writ petition is disposed of as above.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-