

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 3683 of 2015 (I)

PETITIONER:

**SHAHUL P.M, AGED 47 YEARS,
S/O.M.P.MEERAKHAN,
RESIDING AT OVELIL HOUSE, VEROOR P.O.,
VADAKKEKKARA, CHANGANACHERRY,
KOTTAYAM DISTRICT.**

**BY ADVS.SRI.S.JAYAKRISHNAN
SRI.S.PARAMESWARA PRASAD**

RESPONDENT(S):

- 1. THE KERALA STATE HOUSING BOARD,
THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS SECRETARY.**
- 2. THE EXECUTIVE ENGINEER,
KERALA STATE HOUSING BOARD,
KOTTAYAM DIVISION, KANJIKUZH, Y,
KOTTAYAM-686 001.**
- 3. SURESH BABU, AGED 50 YEARS,
S/O.CHANDRASEKHARAN NAIR,
RESIDING AT VENUSADHNAME,
THALAVADI P.O., ALAPPUZHA DISTRICT,
REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER MOHANAN THAMPI,
S/O.DAMODARAN NAIR, PERUMPATHIL HOUSE,
ANAPRAMPAL NORTH P.O., THALAVADI VILLAGE,
KUTTANAD TALUK, ALAPPUZHA DISTRICT.**

R1 & R2 BY SRI.GEORGE BOBAN, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 3683 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT P1 :** TRUE COPY OF PARTNERSHIP DEED DATED 29-06-2007.
- EXT P2 :** TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE ASSISTANT LABOUR OFFICER, CHANGANACHERRY TO THE PETITIONER.
- EXT P3 :** TRUE COPY OF THE LEASE AGREEMENT DATED 22-11-2004.
- EXT P4 :** TRUE COPY OF THE REPRESENTATION DATED 08-12-2014 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT P5 :** TRUE COPY OF THE REPRESENTATION DATED 12-01-2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 3683 of 2015

Dated this the 5th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- i. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 1st and 2nd respondents not to evict the petitioner from Shop Room No.43 in second floor of the Revenue Tower, Changanacherry owned by the Kerala State Housing Board.
- ii. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 2nd respondent to consider and dispose of Ext.P4 representation within the time frame stipulated by this Honourable Court.
- iii. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 1st respondent to consider and dispose of Ext.P5 representation as early as possible after affording an opportunity of being heard."

2. The case projected by the petitioner is that, the shop room bearing No.43 in the second floor of the Revenue Tower, Changanacherry, belonging to the respondent Housing Board, was taken on lease by the 3rd respondent as per Ext.P3

agreement; with whom a partnership agreement was executed by the petitioner vide Ext.P1 and was doing the business accordingly. Since the tenure of lease expired, extension of the same was sought for. But without considering the representation preferred by the petitioner, the room has been locked by the respondent Board, by virtue of which the petitioner is not in a position to do the business. It is only with intent to harass the petitioner and oust him from the shop room, that such a course has been pursued by the respondent Board and hence the challenge.

3. The learned Standing Counsel for the respondent Board submits that, there is no privity of contract between the petitioner and the Board. It may be true that the petitioner had executed a partnership agreement with the 3rd respondent. But the lease admittedly was issued in the name of the 3rd respondent. On finding that the 3rd respondent is not much interested in the business, the premises were surrendered to the Board and the key was handed over. The 3rd respondent sought to refund the security deposit as well and steps are being pursued

to effect disbursement. The 3rd respondent, represented by his power of attorney holder, has been required to produce an NOC to be obtained from the Kerala State Electricity Board in this regard. If the petitioner is interested in occupying the premises, it is open for the petitioner to participate in the tender/auction to be notified by the Board in the due course.

In the above circumstance, this Court finds that the relief sought for by the petitioner is not liable to be entertained by this Court. Interference is declined and the writ petition is dismissed, without prejudice to the rights and liberties of the petitioner to participate in the bid as and when the tender is notified in respect of the concerned shop room.

**P.R. RAMACHANDRA MENON,
JUDGE.**