

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 10281 of 2012 (I)

PETITIONER(S):

**M.J. TYJU, AGED 40 YEARS,
S/O. JOSE, MANALIPARAMBIL VEEDU, PERINGANDOOR P.O.,
ATHANI, MULAMKUNNATHUKAVU, THRISSUR.**

BY ADV. SMT.I.S.LAILA

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. MUNDATHICODE GRAMA PANCHAYATH,
MUNDATHICODE P.O. - 680 595,
REPRESENTED BY ITS SECRETARY.**

**R1 BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA
R2 BY ADV. SRI.SHOBY K.FRANCIS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1 : TRUE COPY OF THE LICENCE ISSUED BY THE 2ND RESPONDENT BEARING NO.158/1998, DTD.17.11.1998.

EXT.P2 : TRUE COPY OF THE REQUEST LETTER SUBMITTED BY THE PETITIONER DTD.7.11.2005.

EXT.P2(a): TRUE COPY OF THE REQUEST LETTER SUBMITTED BY THE PETITIONER DTD.9.5.2006.

EXT.P3 : PHOTOGRAPH SHOWING THE SHOP OF THE PETITIONER.

EXT.P4 : TRUE COPY OF THE NOTICE DTD.16.9.2011 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 : TRUE COPY OF THE NOTICE DTD.30.3.2012 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 : TRUE COPY OF THE LETTER DTD.16.4.2012 SUBMITTED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT.

EXT.P7 : A TRUE COPY OF THE LETTER DTD.20.4.2012 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P8: TRUE COPY OF THE RECEIPT DTD.17.3.2009 EVIDENCING PAYMENT OF DEPOSIT AND RENT.

EXT.P8(a): TRUE COPY OF THE RECEIPT DTD.1.3.2010 EVIDENCING PAYMENT OF DEPOSIT AND RENT.

EXT.P8(b): TRUE COPY OF THE RECEIPT DTD.26.5.2011 EVIDENCING PAYMENT OF DEPOSIT AND RENT.

EXT.P9: PHOTOGRAPH OF THE STAIR ROOM NO.VII/428 TAKEN ON 29.12.2012 WHEREIN BUSINESS OF SOFT DRINKS AND MISCELLANEOUS ITEMS IS CONDUCTED.

EXT.P10: PHOTOGRAPH OF ROOM NOS.VII/415 (XI/475) AD VII/416 (XI/476) TAKEN ON 29.12.2012 WHEREIN THE CHICKEN STALL IS CONDUCTED.

EXT.P11: PHOTOGRAPH SHOWING THE ROOMS WHEREIN THE ANGANWADI IS CONDUCTED IN THE MARKET.

EXT.P12: PHOTOGRAPH OF THE VACANT ROOMS AVAILABLE FOR OWN USE OF THE PANCHAYAT.

Msv/

WP(C).No. 10281 of 2012 (I)

RESPONDENT(S)' EXHIBITS:

**EXT. R2(A): TRUE COPY OF THE ORDER PASSED BY THE OMBUDSMAN IN
OP NO.1883/2010 DTD.22.5.2012.**

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.10281 of 2012

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Dated this the 3rd day of June, 2015

JUDGMENT

Apprehending forcible eviction of the petitioner from the shop room belonging to the second respondent, the petitioner has come up before this Court.

2. The petitioner was conducting a small shop of vegetables, bakery items and watch repair in a shop room bearing door No.V 236 belong to the second respondent since 1997. It is the only source of his livelihood. However, at the request of the second respondent for widening road leading to market, the petitioner vacated the said shop room on the assurance of the second respondent that he would be allotted a room in the shopping complex being constructed at the back.

3. However, after widening the road, the shop room in which the petitioner was conducting business was not fully demolished and at his request, the said un-demolished portion (stair room bearing no.VII 428/4) was allotted to him and he continued his business after paying fresh deposit, licence fee and other charges

since 2006 till this date. The deposit paid at the time of original allotment was also retained by the second respondent.

4. While so, the second respondent issued Ext.P4 notice dated 30.3.2012 demanding the petitioner to vacate the shop room from 31.3.2012 on the basis of a complaint by one P. A. Chandran before the first respondent. Though the petitioner submitted Exts.P6 and P7, without considering the same, the second respondent was taking hasty steps to evict the petitioner. It is with this background, the petitioner has come up before this Court.

5. Arguments have been heard.

6. In the counter affidavit filed by the second respondent, it was contended that as an alternative accommodation, the respondent panchayat has already provided two shops in the shopping complex to the petitioner in the new market building bearing nos.VII/415 (XI/475) and VII/416 (XI/476) and the petitioner is possessing the said rooms and conducting business therein. According to the respondent, the petitioner has suppressed the above fact in the writ petition.

7. It was further stated that the interim order passed by this Court on 23.5.2012 has been received in the office of the

respondent panchayat only on 26.6.2012 and much prior to the receipt of the interim order, the petitioner has been evicted from the room. Therefore, according to the respondents, the writ petitioner has become infructuous.

As the petitioner is no longer in possession of the room, the writ petition is dismissed. If the petitioner has any subsisting grievance, it shall be open to him to approach a competent civil forum for redressal of his grievance.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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