

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WP(C).No. 14550 of 2015 (P)

PETITIONER(S):

1. KAVITHA SEKHAR, W/O.PRADEEP KUMAR,
TC 9/1330, TJRA-153, SASTHAMANGALAM P.O,
THIRUVANANTHAPURAM.
2. PRATHEEP KUMAR, TC 9/1330, TJRA-153,
SASTHAMANGALAM P.O, THIRUVANANTHAPURAM.

BY ADVS.SRI.V.G.ARUN (NEYATTINKARA)
SRI.ANOOP BHASKAR

RESPONDENT(S):

1. THE AIRPORT AUTHORITY OF INDIA,
HAVING ITS REGISTERED OFFICE AT
RAJIV GANDHI BHAVAN,
SAFDARJUNG AIRPORT, NEW DELHI-110 037.
2. THIRUVANANTHAPURAM INTERNATIONAL AIRPORT,
REPRESENTED BY THE AIRPORT DIRECTOR,
THIRUVANANTHAPURAM INTERNATIONAL AIRPORT,
THIRUVANANTHAPURAM-695 008.
3. SENIOR MANAGER(COMMERCIAL),
THIRUVANANTHAPURAM INTERNATIONAL AIRPORT,
THIRUVANANTHAPURAM-695 008.
4. M/S. RUBY ARENA,HAPPY RUBY GROUP,
TC 1/1665(1), MEDICAL COLLEGE P.O,
THIRUVANANTHAPURAM-695 011,
REPRESENTED BY ITS MANAGING PARTNER,
M.VIJAYA KUMAR, S/O.MANIYAN, SREEMANGALAM,
TC 2339(1), UPPER MERIDIAN ROAD, KURAVANKONAM,
KOWDIAR P.O, THIRUVANANTHAPURAM-695 005.

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5. M.VIJAYA KUMAR, S/O. MANIYAN,
SREEMANGALAM, TC 2339(1),
UPPER MERIDIAN ROAD, KURAVANKONAM,
KOWDIAR P.O, THIRUVANANTHAPURAM-695 005.
6. BALAN VIJAYAN, S/O.BALAN,
ANACHANABHAVAN, EDAVANKONAM,
BALAJI NAGAR, KATTAYIKONAM,
THIRUVANANTHAPURAM-695 00.

R1 TO R3 BY ADV. SRI.V.SANTHARAM, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1 :** THE TRUE COPY OF AGREEMENT,DATED 21-02-2011 EXECUTED BETWEEN THE 1ST PETITIONER AND THE 4TH RESPONDENT.
- EXHIBIT P2 :** THE TRUE COPIES OF THE AIRPORT ENTRY PASSES ISSUED TO THE 1ST PETITIONERS' BY THE 1ST RESPONDENT.
- EXT P2(A) :** THE TRUE COPIES OF THE AIRPORT ENTRY PASSES ISSUED TO THE 2ND PETITIONERS' BY THE 1ST RESPONDENT.
- EXHIBIT P3 :** THE TRUE COPY OF THE STATEMENT OF ACCOUNTS OF THE SAVINGS ACCOUNT HELD BY THE 2ND PETITIONER WITH ING VYSYA BANK LTD,TRIVANDRUM BRANCH.
- EXHIBIT P4 :** THE TRUE COPY OF LETTER,DATED 19-06-2014,ISSUED BY THE 5TH RESPONDENT TO THE 2ND RESPONDENT.
- EXHIBIT P5 :** THE TRUE COPY OF LETTER OF AUTHORIZATION,DATED 05-04-2011 ISSUED BY THE 4TH RESPONDENT TO 3RD RESPONDENT.
- EXHIBIT P6 :** THE TRUE COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST PETITIONER ,ON BEHALF OF THE EXECUTIVE LOUNGE AND THE ETIHAD AIRWAYS, DATED 17.4.2012.
- EXT.P6(A) :** THE TRUE COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST PETITIONER ,ON BEHALF OF THE EXECUTIVE LOUNGE AND THE SILK AIR(S) PTE LTD DATED 16-08-2012.
- EXT. P6(B) :** THE TRUE COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST PETITIONER,ON BEHALF OF THE EXECUTIVE LOUNGE AND THE KUWAIT AIRWAYS,DATED 25-09-2012.
- EXT .P6(C) :** THE TRUE COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST PETITIONER, ON BEHALF OF THE EXECUTIVE LOUNGE AND THE QATAR AIRWAYS,DATED 30-10-2013.
- EXT. P6(D) :** THE TRUE COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST PETITIONER,ON BEHALF OF THE EXECUTIVE LOUNGE AND THE MALDIVAN AIRWAYS, DATED 30-10-2013.
- EXT. P6(E) :** THE TRUE COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST PETITIONER,ON BEHALF OF TE EXECUTIVE LOUNGE AND THE JET AIRWAYS.
- EXT. P6(F) :** THE TRUE COPY of THE LETTER OF RENWEAL OF CONTRACT WITH AIR INDIA, DATED 23-09-2013.
- EXHIBIT P7 :** THE TRUE COPY OF THE LAWYERS NOTICE DATED 07-05-2015.

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RESPONDENT(S)' EXHIBITS:

- EXT.R2(A) :** TRUE COPY OF THE LICENCE AGREEMENT NO.13/2011 EXECUTED ON 24.6.2011 FOR RUNNING SNACK BAR KIOSK.
- EXT.R2(B) :** TRUE COPY OF THE LICENCE AGREEMENT NO.10/2011 DATED 26.5.2011 EXECUTED BETWEEN THE 2ND RESPONDENT AND THE 4TH RESPONDENT.
- EXT.R2(C) :** TRUE COPY OF THE PARTNERSHIP DEED OF THE 4TH RESPONDENT, WHICH WAS HANDED OVER TO THE 2ND RESPONDENT AT THE TIME OF EXECUTING THE LICENCE AGREEMENTS.
- EXT.R2(D) :** TRUE COPY OF THE LETTER DATED 26.2.2015 ISSUED BY THE MANAGING PARTNER TO THE 4TH RESPONDENT TO THE 2ND RESPONDENT.
- EXT.R2(E) :** TRUE COPY OF THE LETTER OF AUTHORIZATION DATED 24.2.2015 GIVEN IN FAVOUR OF MR.VINOD G.S.
- EXT.R2(F) :** TRUE COPY OF THE COMMON JUDGMENT DATED 20.3.2015 WP(C)NO.25798 OF 2014 IN WP(C)NO.408 OF 2015.

/TRUE COPY/

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.
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Dated this the 1st day of June, 2015

J U D G M E N T

The petitioners are aggrieved with the alleged eviction of the petitioners from the Airport premises and interdiction from carrying on the activities as per Ext.P1 licence agreement with the respondents 4, 5 and 6. The learned Standing Counsel for the respondents 1 to 3 would contend that, the said petitioners have no privity of contract with the official respondents and they were allowed to enter the secured premises of the Airport only by reason of the authorisation issued by the respondents 4, 5 and 6. Admittedly, the claim of the petitioners is based on Ext.P1 licence agreement, entered into with respondents 5 and 6, who are the partners of the 4th respondent.

2. By Ext.P1 licence agreement, the petitioners herein had agreed to carry on the business entrusted to the 4th

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respondent as per a licence issued at Exts.R2(a) and R2(b) by the official respondents herein. In fact the agreement provides that the licence shall be carried on by the licencees therein or their authorised representatives. The further licence granted by respondents 5 to 6 to the petitioners is not a valid one. Though the learned Counsel appearing for the petitioners would contend that, the licence granted to the respondents 5 and 6 envisage a sub-licence, admittedly the same can only be with the consent of the official respondents. In the present case, there is no consent obtained for such licence and Ext.P1 was never informed to the official respondents herein. In fact the documents produced by the petitioners itself would indicate that, the security passes were issued to the petitioners herein only on the strength of Exts.P4 and P5 as submitted by the respondents 5 and 6, which are mere authorisations.

4. The 1st petitioner was projected as the Chief Executive Officer (C.E.O) of the 4th respondent and the 2nd petitioner as the Managing Director (M.D). The operations were

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carried on by the petitioners herein not by virtue of a licence but only by virtue of an authorisation that too specifically as employees of the 4th respondent, occupying the post of C.E.O and M.D. The interdiction insofar as not permitting the petitioners to enter the premises is by virtue of Ext.R2(d) by which again, the respondents 4 and 5 submitted before the official respondents that, the petitioners had been removed out of their services.

5. The petitioners, if at all could only agitate their case before the Civil Court and that too only as against the respondents 5 and 6. In such circumstance, the writ petition filed, to declare the ouster of the petitioners from the business of the Executive Lounge to be illegal and for a direction to permit resumption of operations, is found to be devoid of merit and the same stands dismissed. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //
P.A to Judge.