

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 18262 of 2015 (G)

PETITIONER(S):

1. NIYAS PANDIKASALA, S/O MAMMAD KUTTY,
NIYAS NIVAS, CHANDAKKADAVU, FAROOK P.O,
KOZHIKODE.
2. AYISHA NIYAS, (MINOR),
D/O NIYAS PANDIKASALA, AGED 13 YEARS
3. FATHIMA NIYAS,(MINOR),
D/O NIYAS PANDIKASALA, AGED 11 YEARS.
(PETITIONERS 2 AND 3 ARE MINORS,
REP. BY FATHER NIYAS PANDIKASALA)

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S):

1. THE INSURANCE MEDICAL OFFICER,
ESI DISPENSARY, CHUNGAM, FEROKE, KOZHIKODE - 673631.
2. THE EMPLOYEES LIFE INSURANCE CORPORATION,
REPRESENTED BY THE INSURANCE MEDICAL OFFICER,
CHUNGAM, FEROKE - 673 631.

*ADDL.R3 & R4 IMPLEADED

3. THE ESI CORPORATION, REP. BY ITS DIRECTOR,
CHAKKORATHUKULAMN, KANNUR ROAD,
KOZHIKODE - 673 066.
4. THE DIRECTOR OF INSURANCE MEDICAL SCIENCES,
DIRECTORATE OF INSURANCE MEDICAL SCIENCES
PANCHDEEP BHAVAN, THYCAUD,
THIRUVANANTHAPURAM - 695 014.

ADDL.R3 AND R4 ARE IMPLEADED AS PER ORDER
DATED 01.07.2015 IN IA 8809/15.

BY SRI.P.SANKARANKUTTY NAIR, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

mbr/

WP(C).No. 18262 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 COPY OF THE LAWAYER NOTICE DATED 12/11/13.
- EXT.P2: COPY OF THE REPLY SENT BY THE RESPONDENTS DATED 17/12/13.
- EXT.P3: COPY OF THE NOTICE DATED 23/4/2015 ISSUED BY THE
RESPONDENTS.
- EXT.P4: COPY OF THE NOTICE SENT BY THE PETITIONERS COUNSEL
DATED 15/5/2015.
- EXT.P5: COPY OF THE SAID NOTICE DATED 28/5/15 ISSUED BY THE
1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.18262 of 2015

Dated this the 14th day of October, 2015

JUDGMENT

The first petitioner's wife Shabna Niyas was the owner of a building bearing No.FP 15/646 situated in Chungam, Feroke. This building was leased out to the respondents on rent. Shabna Niyas is no more. Therefore, the petitioners are the legal heirs and the absolute owners of the above building.

2. The petitioners has approached this Court with the following reliefs:

- a. Issue a writ of mandamus or any appropriate writ order or direction, commanding the respondents to give vacant possession of the building No.FP 15/646, now functioning as ESI Dispensary at Chungam, Feroke.
- b. Issue a writ of mandamus or any appropriate writ Order or direction commanding the respondents to pay the rent due to the petitioner from October, 2013 onwards amounting to Rs.1,52,000/- (One lakh fifty two thousand only).

3. The petitioners also pointed out to Ext.P5. It is stated in Ext.P5 that the respondents will vacate the building as soon as they obtain a new place in the same locality. It is also requested that the petitioners to furnish the details for paying the arrears of rent.

4. The learned Government Pleader submits that the petitioners failed to carry out the maintenance and therefore, they are bound to carry out the maintenance. It is further submitted that the respondents cannot vacate the building unless they find out a new building.

5. As seen from various correspondences, the respondents have no objection in vacating the building.

6. In such situation, this Court is of the view that the respondents shall find out new building and vacate the building within nine months from the date of receipt of a copy of this judgment. The petitioners shall produce a legal heir certificate before the respondents. On production of the legal heir certificate, arrears of rent shall be paid to the petitioners. If any urgent

maintenance work has to be carried out, the same shall be carried out by the petitioners. If the petitioners fail to carry out the maintenance work within one month, the respondents are free to carry out the maintenance work and expenses be adjusted from the arrears of rent. In the event, the respondents undertake the maintenance work, they shall give details of such work and costs in advance to the petitioners.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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