

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WP(C).No. 20095 of 2015 (J)

PETITIONER:

**SINDHU LIJU, AGED 36 YEARS, W/O. LIJU,
RESIDING AT THAIKKATTU HOUSE, NOCHIMA,
N.A.D P.O., ALUVA EAST VILLAGE,
ALUVA TALUK, PIN - 683 563.**

BY ADV. SRI.V.K.VEERAVUNNY

RESPONDENT(S):

- 1. KERALA STATE,
REPRESENTED BY THE CHIEF SECRETARY,
GOVT. OF KERALA, THIRUVANANTHAPURAM.**
- 2. ALUVA MUNICIPALITY,
REPRESENTED BY ITS CHAIRMAN,
MUNICIPAL OFFICE, ALUVA, PIN - 683 101.**
- 3. ALUVA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE, ALUVA, PIN - 683 101.**
- 4. M.P.PETER, S/O. POULOSE, MADANI HOUSE,
CHUNANGAMVELI KARA, KEEZHMAID VILLAGE,
ALUVA TALUK, ERUMATHALA P.O., PIN-683 112.**
- 5. BINDU PETER, W/O. M.P.PETER, MADANI HOUSE,
CHUNANGAMVELI KARA, KEEZHMAID VILLAGE,
ALUVA TALUK, ERUMATHALA P.O., PIN-683 112.
(RESPONDENTS 4 AND 5 REPRESENTED BY THEIR
POWER OF ATTORNEY HOLDER BOBY GEORGE,
S/O. GEORGE, VELIYATH HOUSE, KORATTY P.O.,
KORATTY VILLAGE, MUKUNDAPURAM TALUK), PIN - 680 308.**
- 6. BOBY GEORGE, S/O. GEORGE, VELIYATH HOUSE,
KORATTY P.O., KORATTY VILLAGE,
MUKUNDAPURAM TALUK, PIN - 680 308.**

**R1 BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN
R2 & R3 BY ADV. SRI.V.M.KURIAN, SC
R4 TO R6 BY ADVS. SRI.JAGAN ABRAHAM M.GEORGE
SRI.P.JAYABAL MENON
SMT.K.J.GISHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : TRUE COPY OF THE RENT AGREEMENT DTD.13.1.2015.
P2 : COPY OF THE PLAINT IN OS 294/2015 OF MUNSIFF COURT, ALUVA.
P3 : COPY OF THE CAVEAT OP.
P4 : COPY OF COMMISSION REPORT.
P5 : COPY OF OBJECTION IN IA NO.877/15 OF MUNSIFF COURT, ALUVA.
P6 : COPY OF NOTICE DTD.8.6.2015.
P7 : COPY OF NOTICE DTD.17.6.2015.
P8 : COPY OF APPEAL MEMORANDUM.
P9 : COPY OF STAY PETITION.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.20095 of 2015

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Dated this the 5th day of August, 2015

JUDGMENT

Under challenge in this writ petition is Exts.P6 and P7 notices directing the petitioner to close down the business, on the ground that consent has not been produced from the landlord.

2. Room No. AMC VIII/308(18) of respondent municipality belongs to respondents 4 and 5. A lease agreement dated 13.1.2015 was executed in respect of the said room between respondents 4 and 5 and the petitioner through 6th respondent, since respondents 4 and 5 were abroad. It is mentioned in the agreement that the the rent agreement is for conducting a beauty parlour and ladies boutique by the petitioner. A sum of ₹2,10,000/- was paid as security deposit. The monthly rent was ₹35,000/- and the same was paid till May, 2015.

3. The petitioner alleges that in the meanwhile, the 6th respondent wanted to be a partner in the business without any investment and as she did not agree for the same, the 6th respondent started making troubles and

disturbances to her business. The petitioner further alleges that the 6th respondent was a regular visitor to the business place of the petitioner. The 6th respondent attempted to evict the petitioner from the room by force. Therefore, she filed O.S No.294 of 2015 before the Munsiff's Court, Aluva against the forcible eviction. Prior to that respondents 4 and 5 through the 6th respondent filed a caveat.

4. Since there was caveat urgent notice was issued on the injunction petition. However, a commission was appointed who has filed a report. The 3rd respondent issued Exts.P6 and P7 notices directing the petitioner to close down the business on the ground that consent has not been produced from the landlord. The petitioner further alleges that the refusal of licence by the 3rd respondent is illegal and unsustainable in the special circumstances of the case. It is with this background, the petitioner has approached this Court.

5. The respondents 4, 5 and 6 have filed a counter affidavit refuting the allegations in the writ petition.

6. Arguments have been heard.

7. The learned standing counsel for the respondent municipality submitted that the petitioner has submitted an appeal before the municipal council of the municipality.

Therefore, the writ petition is disposed of directing the municipal council of the respondent municipality to consider the appeal after affording the petitioner and respondents 4 to 6 an opportunity of being heard within a period of one month from the dater of receipt of a copy of this judgment. The petitioner shall have the benefit of the interim order already passed by this Court till a final decision is taken on the appeal by the municipal council.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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