

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 26325 of 2012 (M)

PETITIONER(S) :

SIVADAS T.G. AGED 54 YEARS
S/O.GOPALAN, THONIKKAVAYALIL HOUSE
NELLIPPARA P.O., THANKAMANI VILLAGE
UDUMBENCHOLA TALUK, NOW RESIDING AT C/O.P.K.RAJI
PAPPANIKUNNEL HOUSE, NADAKKAVU P.O.
MANAKUNNAM VILLAGE, KANAYANNUR TALUK.

BY ADVS.SRI.ABRAHAM P.GEORGE
SRI.K.VINODKUMAR (707/89)
SMT.M.SANTHY

RESPONDENT(S) :

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1. UDAYAMPEROOR GRAMA PANCHAYAT
OFFICE AT UDAYAMPEROOR, REPRESENTED BY ITS SECRETARY
PANCHAYATH BUILDINGS, UDAYAMPEROOR P.O., PIN-687302.
 2. THE SECRETARY
UDAYAMPEROOR GRAMA PANCHAYATH, PANCHAYATH BUILDINGS
UDAYAMPEROOR P.O., PIN-687302.
 3. K.G.MATHAI ALIAS MATHEW
AGED ABOUT 52, S/O.GARVASIS, KIDANGETH HOUSE
UDAYAMPEROOR, MANAKUNNAM VILLAGE, KANAYANNUR TALUK
PIN-687302.

R3 BY ADV. SRI.PEEYUS A.KOTTAM
R1,R 2 BY ADV. SRI.P.N.SUKUMARAN

THIS WRIT PETITION (CIVIL)HAVING BEEN FINALLY HEARD ON
13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1 THE TRUE PHOTOCOPY OF THE PLAINT SUBMITTED BY THE
 PETITIONER IN OS.223/2012 BEFORE THE HON'BLE MUNSIFF'S
 COURT, ERNAKULAM.
- EXT.P2 THE TRUE PHOTOCOPY OF THE LAWYER NOTICE ISSUED BY THE
 3RD RESPONDENT DATED 21/3/2012.
- EXT.P3 THE TRUE PHOTOCOPY OF THE LICENSE NO.C4-164/12-13 DATED
 2/4/2012 ISSUED BY THE 2ND RESPONDENT, SECRETARY,
 UDAYAMPEROOR GRAMA PANCHAYATH.
- EXT.P4 THE REPLY ISSUED BY THE SECRETARY, UDAYAMPEROOR GRAMA
 PANCHAYATH DATED 31/10/2012 REQUIRING THE PETITIONER
 TO PRODUCE THE RENTAL AGREEMENT UPTO 31/3/2013.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

sou.

A.M.SHAFIQUE, J

W.P(C). No. 26325 of 2012

Dated this the 13th day of November, 2015

J U D G M E N T

Petitioner has approached this Court seeking for a direction to respondents 1 and 2 to dispense with the condition imposed in Ext.P4, ie., production of the rental agreement by the petitioner to renew the license in his favour up to 31.3.2013 enabling him to run his cold storage by name Amrutha Cold Storage in shop room No.IX/53C of Udayamperoor Panchayat. According to the petitioner he has taken on lease the aforesaid shop room from the third respondent in the year 2006, and which has been renewed from year to year. The date of last rental agreement was 12.9.2011, which was for a period of 11 months. Thereafter the landlord had not consented to renew the lease agreement and he had even filed a suit for recovery of the possession of the said premises. According to the petitioner, the Trade license has not been renewed by the Local Authority and they are insisting for consent from the landlord.

2. It is apparent that the Trade licence has been issued to

the petitioner for the previous years. For renewal of the said trade license the Panchayat cannot insist for further consent from the landlord. The petitioner will be entitled to get renewal of Trade licence until he is evicted by due process of law. In so far as the petitioner is a tenant holding over, he will be entitled to remain in possession and continue the business until he is evicted by due process of law.

3. Under such circumstances, respondent Panchayat is bound to renew the Trade licence as long as the petitioner is in occupation of the tenanted premises. Hence the writ petition is allowed, directing the Panchayat to consider the application of the petitioner for renewal of the licence and pass appropriate orders within a period of 30 days from the date of receipt of a copy of this judgment. This will be subject to any orders passed by the civil court in the pending civil suit.

Sd/-
A.M.SHAFFIQUE,
JUDGE

// TRUE COPY //

P.A. TO JUDGE

sou.13/11/15