

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 23312 of 2014 (L)

PETITIONER(S):

**P.J. AUGUSTINE, S/O. JOSEPH,
AGED 59 YEARS, PONGACHIRA HOUSE,
ELOOKARA, MUPPATHADOM P.O, ERNAKULAM.**

**BY ADVS.SRI.P.SANJAY,
SMT.A.PARVATHI MENON.**

RESPONDENT(S):

- 1. KOTTUVALLY PANCHAYAT,
PARAVUR TALUK, ERNAKULAM,
REPRESENTED BY ITS SECRETARY,
PIN-683 513.**
- 2. KOTTUVALLY GRAMA PANCHAYAT COMMITTEE,
PARAVUR TALUK, ERNAKULAM,
REPRESENTED BY ITS PRESIDENT, PIN-683 513.**

**BY ADVS. SRI.BABU KARUKAPADATH,
SMT.M.A.VAHEEDA BABU,
SRI.K.A.NOUSHAD,
SRI.P.U.VINOD KUMAR,
SRI.KANDAMPULLY RAHUL,
SRI.MITHUN BABY JOHN,
SRI.J.RAMKUMAR.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-02-2015, ALONG WITH WP(C).NO.22324 OF 2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 : COPY OF THE AGREEMENT DATED 20.04.2013.
- EXT.P2 : COPY OF THE DEMAND DRAFT DATED 24/07/2014.
- EXT.P3 : COPY OF THE NOTICE.
- EXT.P4 : COPY OF THE REPRESENTATION DATED 21.08.2014.
- EXT.P5 : COPY OF THE POSTAL RECEIPT DATED 21.08.2014.
- EXT.P6: COPY OF THE AFFIDAVIT OF PRASAD V.V. DATED 11/12/2014.
- EXT.P7: COPY OF THE AFFIDAVIT OF DEVASSYKUTTY DATED 11/12/2014.

RESPONDENT'S EXHIBITS:-

- EXT.R1A COPY OF THE LATEST AGREEMENT DATED 18/03/2014.
- EXT.R1B COPY OF THE .R.R NOTICES ISSUED TO THE PETITIONER.
- EXT.R1C COPY OF THE LETTER INTIMATING THE DECISION OF THE PANCHAYATH COMMITTEE DATED 24/06/2011 TO THE PETITIONER.
- EXT.R1D COPY OF THE COMPLAINT RECEIVED BEFORE THE 2ND RESPONDENT.
- EXT.R1E COPY OF THE ENQUIRY REPORT OF THE STANDING COMMITTEE OF THE PANCHAYAT DATED 21/07/2014.
- EXT.R1F COPY OF THE INTIMATION DATED 23/07/2014 RECEIVED BEFORE THE PANCHAYAT WITH RESPECT TO SHOP NO.IX/400 L.
- EXT.R1G COPY OF THE REQUEST DATED 09/07/2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.R1H COPY OF THE POSTAL COVER EVIDENCING SENDING OF THE LETTER DATED 24/07/2014 AND ITS RETURN.
- EXT.R1I COPY OF THE NOTICE DATED 16/08/2014 ISSUED BY THE PANCHAYAT TO THE PETITIONER.
- EXT.R1J COPY OF THE DISPATCH REGISTER MAINTAINED BY THE PANCHAYAT.
- EXT.R1K COPY OF THE REQUEST DATED 27/08/2014 RECEIVED BY THE PANCHAYAT.

//TRUE COPY//

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 23312 of 2014

&

W.P.(c) No. 22324 of 2014

Dated this the 03rd day of February, 2015

COMMON JUDGMENT

The petitioners in these two writ petitions are similarly placed, having a common grievance against the same set of respondents. Accordingly, this Court proposes to dispose of both the writ petitions through a common judgment.

2. The petitioner, being the lessee of shop No. IX/400C, L and IX/400P,Q (in all four shops), has an apprehension that the respondent Grama Panchayat is making hectic efforts to evict the petitioner from all the shop rooms without due process, on a fallacious plea that he sublet those shops in violation of the lease conditions. Accordingly, he filed the present writ petitions.

3. The learned counsel for the respondent Grama Panchayat has submitted that in so far as W.P. (C)

No.23312/2014 is concerned only a show cause notice was issued and that the petitioner submitted his explanation through Exhibit P4. According to the learned counsel, the Grama Panchayat has to take a final decision in that regard. In so far as W.P. (C) No. 22324/2014 is concerned, the learned counsel has submitted that the respondent Grama Panchayat has already passed orders of eviction and duly served them on the petitioner. According to her, having received the final orders, suppressing the same, the petitioner approached this Court.

4. At any rate, the learned counsel for the petitioner has strenuously contested the statement of the learned counsel for the respondent Grama Panchayat that he has ever received the final orders alleged to have been passed by the respondent Grama Panchayat.

5. Be that as it may, the controversy lies in narrow compass. The principle allegation faced by the petitioner is that he has sublet the four shops which have been let out to him by the Grama Panchayat, clearly in violation of the lease conditions. According to the learned counsel for the petitioner, if the respondent Grama Panchayat passes an

order on the issue of violation of lease conditions, the petitioner could as well avail himself of the statutory remedy of an appeal and that his rights and liabilities shall be subject to the outcome of the statutory appeal.

6. It is to be observed that the lease period is to expire by March, 2015. It has been the practice of the respondent Grama Panchayat to put up the property for public auction annually, as was done on the last occasion as well. It is for the respondent Grama Panchayat either to carry on the issue of determining whether there is any violation of lease conditions by the petitioner or in the alternative to go for public auction for the next year, i.e. from April, 2015, thereby imposing a specific condition against subletting. Still, it is open for the respondent Grama Panchayat to pursue both the remedies simultaneously, i.e. proceeding against the petitioner in accordance with law after putting him on notice concerning the alleged violation of lease conditions on subletting and proceeding with public auction, as they deem fit.

7. In either event the petitioner shall be given an opportunity to defend himself or to participate in the public

auction.

With the above observation, both the writ petitions are disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-