

IN THE COURT OF PRINCIPAL SUB JUDGE, NORTH PARAVUR

Present:- Sri.K. Santhosh Kumar, Principal Sub Judge.

Wednesday, the 11th day of October, 2023/ 19th Aswina, 1945

O.S No.128/2019**Plaintiff:-**

Misha Chandran, aged 38 years, D/o.Chandran, Paithrukam,
Venganamkuzhi House, Kaitharam P.O., North Paravur.

By Advs. Johnson Abraham & Nelson Abraham

Defendants:-

1. Shine Jacob, aged 37 years, S/o.Jacob, Kochuthundathil House, Valluvally Kara, Kottuvally Village, Koonammavu P.O., Pin - 683 518.
2. Yadhukrishna, aged 24 years, S/o.Ravi, Kottayil House, Valluvally Kara, Kottuvally Village, Koonammavu P.O., Pin - 683 518.

Exparte.

This suit having been finally heard on 11.10.2023 and the court on the same day delivered the following:-

JUDGMENT

The suit is for the reliefs of realisation of money and permanent prohibitory injunction.

2. The averments in the plaint, in brief, are as follows :- Plaintiff entrusted the defendants to construct her house for a total cost of ₹34,63,200/-. But the defendants received total sum of ₹34,75,000/- and not

completed the construction of house. She require ₹12,00,000/- for the costs of the completion of the construction work. She sustained a loss of ₹2,55,000/- towards the compensation for the delay. Defendants received excess amount of ₹11,800/- from her. Thus she prayed to pass a decree to realise total sum of ₹14,66,800/- from the defendants and their assets. She also prayed for a decree of permanent prohibitory injunction to restrain defendants and their men and agents from making any sort of obstruction in the completion of construction of building in the plaint schedule property, trespassing in the property and committing any waste therein.

3. Defendants remained ex-parte. Plaintiff was examined as PW1 and Exts. A1 to A3, A4 series (3 in Nos.), A5, A6, A7 series (2 in Nos.), C1 and C1(a) were marked.

4. The certified copy of sale deed No. 5138/2014 of the S.R.O., Paravur and the statement of account from the Ernakulam District Co-operative Bank, Koonammavu Branch were marked as Exts. A1 and A2 respectively through PW1. Exhibits A1 and A2 and the evidence of PW1 proved the facts with respect to the construction of her building in the plaint schedule property and her payment of ₹34,75,000/- to the defendants. The copy of police complaint dated 30.04.2019, copy of lawyer notice dated

10.10.2019 and its two postal receipts, postal acknowledgement card, returned notice and the dispute settlement agreement dated 31.10.2019 with the copy of agreement dated 24.10.2017 were marked as Exts. A3, A4 series (3 in Nos.) A5, A6, A7 series (2 in Nos.) respectively through PW1. Exhibits A3, A4 series, A5, A6 and A7 series documents substantiated the pleading of PW1 with regard to her dispute and claim against the defendants. The commission report and Engineer's report were marked as Exts. C1 and C1(a). These documents also substantiated the claim of PW1. Considering the evidence of PW1 and the above documents, it is found that the plaintiff has proved her claim for the reliefs for the realisation of amount and permanent prohibitory injunction. There is no agreement between both parties with respect to the rate of interest in the context of default of the contract of the construction of house. Therefore PW1 is not entitled to get interest at the rate of 18% per annum for the realisation of amount from the defendants. Hence the suit is decreed as follows :-

- 1) Plaintiff is allowed to realise ₹14,66,800/- (Rupees Fourteen lakhs sixty six thousand and eight hundred only) with an interest at the rate of 6% per annum from the date**

of the suit till realisation in full from defendants and their assets.

- 2) A decree of permanent prohibitory injunction is passed to restrain the defendants and their men and agents from making any sort of obstruction in the completion of construction of building in the plaint schedule property, trespassing in the property and committing any waste therein.
- 3) Considering the nature and circumstance of the suit, plaintiff is also allowed to realise the costs of the suit from the defendants and their assets.

Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court, this the 11th day of October, 2023.

K.Santhosh Kumar,
Principal Sub Judge.

Appendix:-

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| A1. | 26.11.2014 | Certified copy of the Sale Deed No.5136/14 of SRO, N.Paravur. |
| A2. | 29.04.2019 | Bank statement of account of the plaintiff. |

A3.	30.04.2019	Copy of police complaint.
A4.	10.10.2019	Demand lawyer notice
A4(a)	10.10.2019	Postal receipt
A4(b)	10.10.2019	Postal receipt
A5.	12.10.2019	Postal Acknowledgment Card.
A6.	12.10.2019	Unserved postal cover.
A7.	31.10.2019	Dispute settlement agreement.
A7(a)	24.10.2017	Annexure copy Original agreement.

Defendant's Exhibits:- Nil

Plaintiff's Witnesses:-

PW1	11.10.2023	Misha Chandran
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Defendant's Witnesses:- Nil

Court Exhibits:-

C1.	18.02.2020	Commission report.
C1(a)		Engineer's Report.

Principal Sub Judge.

Typed by:
Com. By: