

IN THE COURT OF THE MUNSIFF, KATTAPPANA
PRESENT: FELIX JOHN, MUNSIFF
Wednesday the 07 th day of June, 2023 / 17 th day of Jyaishta, 1945
OS 503/2020

Plaintiff	:	Manoj, Aged 46 Years, S/O Karunakaran, Pullattuthazhe House, Nariyampara Kara, Kanchiyar Village, Idukki Taluk.
		By Adv: Tom Thomas
Defendant	:	Bindhu Gopalakrishnan, Aged about 47 Years, W/O Gopalakrishnan, Paruthumparayil House, Chettukuzhy Kara, Karunapuram Village, Udumbanchola Taluk.
		By Adv: Jomon K Chacko

This suit is filed under Section 26, Order VII, Rule 1 of the Civil Procedure Code and coming before me for hearing on 22.05.2023 and having been stood over for consideration till 07.06.2023 in the presence of the above counsel and the Court on the same day delivered the following :

JUDGMENT

The suit is for realization of money.

2. Plaintiff's case in brief is as follows:-

Plaintiff entered into a lease agreement with the defendant whereby the plaintiff took on lease an extent of 48 cents of land for the purpose of cardamom cultivation. As per the lease agreement dated 13.07.2018, the lease amount was fixed at Rs. 12,000/- per year and the lease period was agreed to be for 8 years till 30.12.2026. On the date of lease, an amount of Rs. 24,000/- was paid by the plaintiff to the defendant which includes the lease amount of the first year and that of the last year. The further lease amount was agreed to be paid by the 30th July every year. Thus the lease amount for the coming years is to be paid in advance every year. The schedule property was not a well maintained agricultural plot. The cardamom plants were not properly looked after due to lack of manuring and watering. Hence the plaintiff revamped the plants by applying pesticides and fertilizers. Since there was no adequate water supply, the plaintiff had to transport water from far away places incurring huge expenses. An amount of Rs. 24,000/- was paid to the defendant on the date of lease and a further amount of Rs. 12,000/- each was paid on 12.07.2019 and 18.07.2020, which was endorsed on the lease agreement itself. Thus a total amount of Rs. 48,000/- has been paid by the plaintiff to the defendant as rent itself.

3. After receiving the amount on 18.07.2020, the defendant suddenly demanded the plaintiff to vacate the property as she wanted to sell the same. The plaintiff expressed his inconvenience for vacating the property. He spent huge amount in the property for cardamom cultivation. The plaintiff requested the defendant to allow him to continue until the lease period is over or atleast for another two years so as to set off the lease amount already paid. But the defendant was very adamant, as some purchasers were ready to acquire the

property. On 15.10.2020, the defendant along with a few goons, trespassed into the schedule property and evicted the plaintiff therefrom and took possession of the schedule property by force. Out of the lease amount paid, Rs. 24,000/- is to be repaid, which is the amount paid in advance on the date of lease towards last years rent and the amount paid on 18.07.2020. During 2018-2020 the plaintiff could only collect cardamom worth Rs. 20,000/- and he was expecting Rs.50,000/- as net income each in the coming years after meeting all expenses. Thus plaintiff has sustained a loss of Rs. 3,00,000/- on that account alone. Also almost Rs. 26,000/- had been expended by the plaintiff towards watering, manuring, spraying pesticides, labour charges and such other agricultural works in the leased property. However owing to the uncertainties and paucity of funds, the claim is limited to Rs. 1,00,000/- which includes Rs. 26,000/- expended by the plaintiff and Rs. 50,000/- as loss of income. Hence the suit filed.

4. The defendant was set exparte under Order VIII, Rule 10 CPC as no written statement was filed. Based on the pleading of the plaintiff, the following points arise for consideration:

1. Is the plaintiff entitled to recover an amount of Rs. 24,000/- which is paid as lease amount from the defendant ?
2. Is the plaintiff entitled to realize Rs. 76,000/- towards amount expended and loss and damages from the defendant ?
3. Reliefs and costs ?

5. The defendant in the suit was set *exparte*. On the side of the plaintiff, plaintiff was examined as PW1 and another witness as PW2. Exts: A1 and A2 were marked.

6. Heard the learned counsel for the plaintiff.

7. **Point No.1 :** The plaintiff filed affidavit in lieu of examination in chief and deposed in tune with the plaint averments. According to PW1, the lease agreement was entered on 13.07.2018. Ext: A1 is the lease agreement. An amount of Rs. 24,000/- was paid to the defendant on the date of lease. A further amount of Rs. 12,000/- each was paid on 12.07.2019 and 18.07.2020 which had been endorsed on the lease agreement itself. The last payment on 18.07.2020 was infact paid for the year 2020-21. Thus on the whole Rs. 48,000/ was paid by the plaintiff to the defendant as rent. On 15.10.2020, the defendant along with a few goons, trespassed into the schedule property and evicted the plaintiff therefrom and took possession of the schedule property by force. Out of the lease amount paid, Rs. 24,000/- is to be paid back which is the amount paid in advance on the date of lease towards first year and that for the last year rent.

8. The learned counsel for the plaintiff submitted that the plaintiff has been in possession of the schedule property for two years and hence he is liable to pay only Rs. 24,000/- and he is entitled to get back Rs. 24,000/- which was paid as lease amount of the first year and that of the last year. As the defendant was set *exparte* the evidence adduced by the plaintiff is unrebutted and uncontroverted. From the evidence of PW1 and Ext: A1, this Court is of the

finding that the plaintiff is entitled to get back Rs. 24,000/- which was paid as advance rent. Hence Point No: 1 is found in favour of the plaintiff.

9. **Point No: 2 :** PW1 has deposed in tune with the plaintiff's averments. PW2 is the Assistant Director of Spices Board, Puttadi. He was examined to prove the average net income that may be realised from the schedule property and the average price of the cardamom during the relevant period. He deposed that half acre plot will fetch a net income of Rs. 1,20,000/- to 1,50,000/- and expenses will come around Rs. 50,000/-. It is for the year from 2017 to 2018. In 2019 to 2020 year average price was Rs. 2000/- to 2500/- and at that time a net income of Rs. 3,00,000/- to 3,75,000/- will get minus the expenses of Rs. 50,000/-. He also deposed that average price of cardamom is Rs. 1,000/- during 2017-18. Ext: A2 is the all India monthly weighted Average Auction Price of Cardamom for the crop period 2017-18 to 2021-22. The plaintiff is claiming net income for 6 years and has limited his claim to Rs. 50,000/-. The evidence adduced proves that the schedule property will get more than Rs. 50,000/- as net income in six years. The evidence adduced by the plaintiff is unrebutted and uncontroverted. Also, the plaintiff deposed that Rs. 26,000/- has been expended by the plaintiff towards watering, manuring, spraying pesticides, labour charges and such other agricultural works in the leased property. This evidence also remains uncontroverted. Hence, this Court is of the finding that the plaintiff is entitled to realise Rs. 76,000/- towards amount expended and loss and damages from the defendant. Point No: 2 is answered in favour of the plaintiff.

10. **Point No: 3 :** In the result of finding in Point Nos: 1 and 2 the plaintiff is entitled to recover Rs. 1,00,000/- from the defendant. Since the agreement is not of commercial nature, fixing the interest rate at 6% (Six percent) per annum from the date of suit till the date of realization, is reasonable. Considering the facts of the case and oral evidence, the plaintiff is entitled to realise the costs of the suit from the defendant.

In the result, the suit is decreed with costs as follows:-

The plaintiff is entitled to recover Rs. 1,00,000/- (Rupees One Lakh only) from the defendant with 6% interest from the date of suit till the date of realisation.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 07th day of June, 2023.

**FELIX JOHN,
MUNSIFF, KATTAPPANA**

APPENDIX

<u>Plaintiff's Exhibits :</u>		
A1	13.07.2018	Lease Agreement executed by defendant in favour of the plaintiff
A2	17.01.2023	Details of Auction Price of Cardamom produced by Director (Marketing) Spices Board. Palarivattom, Kochi.

<u>Defendant's Exhibits :</u>			NIL
<u>Court Exhibits :</u>			NIL
<u>Plaintiff's Witnesses :</u>			
PW1	22.10.2022	Manoj	
PW2	27.01.2023	Dr. Anilkumar K A	
<u>Defendant's Witnesses :</u>			NIL
<u>Court Witnesses :</u>			NIL

MUNSIFF

Typed by : Syam M S
Compd. By : Mini

FAIR JUDGMENT IN OS 503/2020
DATED: 07.06.2023.