

## IN THE COURT OF THE MUNSIFF, NADAPURAM.

Present: Sri. Yadukrishnan. B, Civil Judge (Junior Division)

Saturday, the 22<sup>nd</sup> day of November, 2025**IA 2/2025 in OS 132/2025****Between:**

|  |   |                    |
|--|---|--------------------|
| HAMEED. N. K,                                      | ] |                    |
| S/o. Late Moidu, Aged 72 years, Proprietor, Exon   | ] |                    |
| science institute, Areekkara House, Adukkath (PO), | ] | <u>Petitioner/</u> |
| Kuttiadi (Via), Maruthomkara Village, Adukkath     | ] | <u>Plaintiff</u>   |
| Desom, Vadakara Taluk, Kozhikode District, Pin:    | ] |                    |
| 673 508.   | ] |                    |

**And:**

|   |   |   |                     |
|---|---|---|---------------------|
| 1 | Dr. NAJIYA KUNIIYIL,                                | ] |                     |
|   | D/o. Dr. Kunhabdulla, Aged 45 years, Residing at    | ] |                     |
|   | Kuniyil House, Kayakkodi Village, Devrkoivil        | ] |                     |
|   | Desom, Vatakara Taluk, Kozhikode District, Pin: 673 | ] |                     |
|   | 508.  | ] |                     |
| 2 | Dr. NAJMA MUHAMMAD,                                 | ] |                     |
|   | D/o. Dr. Kunhabdulla, Aged 42 years, Residing at    | ] |                     |
|   | Kuniyil House, Kayakkodi Village, Devrkoivil        | ] | <u>Respondents/</u> |
|   | desom, Vatakara Taluk, Kozhikode District, Pin: 673 | ] | <u>Defendants</u>   |
|   | 508.  | ] |                     |
| 3 | Dr. KUNHABDULLA,                                    | ] |                     |
|   | S/o. Late Ammad Haji, Aged 82 years, Residing at    | ] |                     |
|   | Kuniyil House, Kayakkodi Village, Devrkoivil        | ] |                     |
|   | Desom, Vatakara Taluk, Kozhikode District, Pin: 673 | ] |                     |
|   | 508.  | ] |                     |

This petition coming on this day for hearing before me in the presence of Sri. K. K. Anil Raj and Smt. Mijisha. P, Advocates for the petitioner and of Sri. P. Balagopalan, Sri. P. Arun Kumar and Smt. Mini. K. Koyeri, Advocates for R2, R3 and R1 not entered in appearance and this court passed the following:-

**ORDER**

IA 2/2025 is an injunction application filed by the petitioner/plaintiff under Order 39 Rule 1 and 2 of the Code of Civil Procedure.

2. **The averments in the petition is in brief as follows:-** The petition schedule shop room described in the schedule belonged to the 1<sup>st</sup> and 2<sup>nd</sup> respondent. The 3<sup>rd</sup> respondent is the father of the 1<sup>st</sup> and 2<sup>nd</sup> respondent. He is managing and looking after the rooms described in the schedule with remaining sections of building for his daughter's, defendants 1 and 2. This petitioner had taken the rooms mentioned in the schedule for running a Tutorial Center and Parallel College therein under the name Exon Science Institute in the year 2018. The present rent payable is Rs.30,600/- for the two halls described in the schedule, for hall No.KP6/816 and 6/817, monthly rent is Rs.15,600/- and the rent of the 2<sup>nd</sup> room bearing No.6/819 is Rs.15,000/- per one month. The rent of the both rooms has been paid up to date. The Tutorial College is registered by the petitioner with the door numbers of the sales tax department vide GST No.32AARPH 6129 G1 ZQ and 8 classes with 400 students in 10<sup>th</sup> standard at various schools are studying for tuition in the 8 class rooms. The petitioner submits that he is a tenant under the respondents and the rooms come within the purview of KBLRC Act 1965. Prior to taking the possession of hall No.6/816 from defendants 1 and 2, it

was in the possession of Mr.Noushad, he conducted computer center therein. The petitioner has stated that there are teachers who are working under him in the said tuition classes. The rent agreement is with respect to the hall No.6/816 was renewed in the year 2024. The issue in dispute is that the respondents tried to forcefully evict the petitioner from the said shop room. According to petitioner he can only be evicted through the due process of law after giving notice. Hence, the present petition is instituted by the petitioner for a temporary injunction restraining the respondents, their men and agents from forcefully evicting the petitioner from the petition schedule shop rooms other than by taking legal actions under the procedure established by law and from obstructing in any manner with the running of the Tutorial college therein by the petitioner until the disposal of the suit.

3. **The 1<sup>st</sup> respondent reported to be abroad and the 2<sup>nd</sup> and 3<sup>rd</sup> respondent appeared and filed objection to the petition which is in brief as follows:-** These respondents admit that they are the owner of the petition schedule building. However, they denies the fact that the petitioner is their tenant. The petitioner has no manner of right, possession or interest over the plaint schedule property. The respondents submit that the petition schedule shop rooms having lawfully let out to one Mr. Noushad and separate Rent Agreements have been executed with him. The respondents are also getting rent with respect to each rooms from the said Noushad. Therefore, Sri.

Noushad is in continuous, actual and exclusive possession of all the 3 rooms and is conducting a tuition center therein, and the petitioner has no manner of right, role or relevance in respect of the premises. The respondents further submits that the petitioner attempted to sent a cheque for Rs.30,600/- towards the alleged rent for the plaint schedule property. Since, the petitioner is not the tenant and has no possession, respondents did not encashed the cheque. Therefore, according to respondents they have no acquaintance or dealings with the petitioner. This respondents admits that there exists some business dispute between the petitioner and Sri. Noushad for which these respondents have no role. Therefore, these respondents are unnecessary party to the suit as well as the petition. The petitioner was never in possession of the plaint schedule property at any point of time, including on the date of filing of the suit. These respondents submitted a detailed questionnaire under the Right to Information Act before the Kuttiady Gramapanchayath seeking clarification on where exactly the petitioner was running any Tuition center and whether he had any license in respect of the plaint schedule property. As per the report of the public information officer it is stated that the petitioner is having right exclusively upon the building number KP 6/826 M and not to the plaint schedule property. Therefore, it is clear that the petitioner is not in possession of the plaint schedule property. The petitioner has no tenancy, no possession, no contractual or legal right over the petition schedule property. He is not a tenant. The details and the number of the plaint schedule shop room as per

the plaint and the shop room belonged to the petitioner are different. These respondents have not done any act to forcefully evict the petitioner from the building. Therefore, the present petition is filed on a suppression of material facts and is to be dismissed in limine. Hence, the petition may be dismissed with costs.

4. From the side of the petitioner/plaintiff 6 documents were produced and marked as Exts.A1 to A6. From the side of respondents 7 documents were produced and marked as Exts. B1 to B7. The commission reports are marked as Ext.C1 and C2. The documents produced from both sides are marked only for the purpose of deciding the IA's.

5. Following are the points arises for consideration:-

- 1) Is the petitioner/plaintiff made out a prima facie case?
- 2) Is the balance of convenience in favour of the petitioner/plaintiff?
- 3) Is the petitioner/plaintiff entitled for an order of injunction from this court?
- 4) If an order of injunction is not granted whether it will cause any irreparable loss or injury to the petitioner/plaintiff?
- 5) Reliefs and costs?

6. Heard both sides. Perused the records.

7. **Point No. 1 to 4 :-** All the points are considered together for the sake of convenience and clarity. This is a suit for permanent prohibitory injunction. The prayer in the petition is to pass an injunction against forceful eviction. The case of the petitioner is that he is a tenant of the respondents and is running a tutorial college in the petition schedule shop room. The case of the petitioner is that he shall not be forcefully evicted from the premises otherwise than on due process of law. The case of the respondents is that they admit that they are the owners of the building including the petition schedule shop room. However, they deny that the petitioner is not their tenant and has no right over the petition schedule shop room. The respondents further submits that the shop rooms were leased out to one Mr. Noushad and he is in possession of the said shop rooms and the respondents are collecting rent from him. Therefore, the petitioner's possession over the shop room is disputed by the respondents. The respondents at the same time submit that they have only symbolic possession over the building and the possession is with Mr.Noushad. These respondents submit that the petitioner and Mr.Noushad is having some business dispute and out of which these respondents have no role. The respondents state that the petitioner was a tenant and not at present. Sri. Noushad is the tenant of the respondents.

Therefore, the petitioner is not entitled to seek an order of injunction from this court. In a suit for forceful eviction the primary aspect to be determined is who was in possession at the date of institution of the suit. To determine it the petitioner has taken out a commission and the Advocate commissioner has filed a report which is marked as Ext.C1. As per Ext.C1 report it is reported by the Advocate commissioner that at the time of inspection he could see the board of the tutorial institute under the title Exon Science Institute which according to the petitioner is the institute conducted by him in the petition schedule shop room as per the plaint. This has been reported by the Advocate commissioner. He has stated that at the time of inspection the petitioner was present and the door of the shop room has been opened by one Mr.Vasil who is the manager of the said institute. Therefore, by virtue of Ext.C1 report the petitioner tries to convince before this court that at the time of inspection the petitioner is in possession of the petition schedule shop room. During the continuation of the injunction proceedings the counsel for the petitioner filed a petition under Order 39 Rule 2A stating that the order of injunction has been violated by the respondents. For proving the same the petitioner has again taken out a commission and the Advocate commissioner has filed another report stating the violations done by the respondents. It has been reported by the Advocate commissioner that there are some changes in the petition schedule shop room from the previous inspection conducted by him. He stated that at the time of inspection he could see a person named Noushad in

the petition schedule shop room and he stated to the Advocate commissioner that he is the owner of the said shop room. He has been accompanied by some other persons as well. To prove the case of the petitioner, the petitioner has produced 6 documents. Ext.A1 is the rent agreement executed between the petitioner and respondents dated 25.03.2024. Ext.A2 is the registration certificate of the tutorial institution issued by Secretary, Kuttiady Gramapanchayath dated 18.06.2024. Ext.A3 is the certificate of registration issued by the GST department to the plaintiff for running the tutorial in the plaint schedule room. Ext.A4 to A6 are the biodatas of the students of the period 2024 to 2026. Thus, by virtue of A1 to A6 documents the petitioner tries to establish before this court that he is in possession of the petition schedule shop room.

8. The moot question to be decided in this case is whether the petitioner has established a lawful tenancy over the petition schedule building. To determine this it is pertinent to go through the documents produced by the respondents. Exts.B1 to B4 are the rent agreements executed between the respondents and Mr.Noushad for the shop rooms numbered as KP 6/817, KP 6/819 and KP 6/816. The rent deeds were executed on 30.10.2020, 16.12.2022, 27.03.2025 and 28.05.2025. This itself shows that the rent deed has been renewed by the respondents with Noushad very recently as well. This is stated in Ext.B4. The case of the respondents are that the petitioner is

no longer his tenant and to prove the possession as on the date of suit nothing has been produced by the petitioner. The petitioner has not produced any rent receipts showing the fact that he is paying rent with respect to the petition schedule premises. In fact, by virtue of Ext.B5 document the petitioner has attempted to send a cheque for Rs.30,600/- towards the alleged rent for the plaint schedule property. Prior to the execution of the said cheque no document pertaining to the payment of rent has been produced by the petitioner. The respondents submit that since the petitioner is not the tenant the respondents did not encash the cheque. The other important aspect to prove the possession over the petition schedule shop room the respondents placed a questionnaire before the Kuttiady Grama Panchayath and it is marked as Ext.B6. As per the said document the respondents asked before the panchayath that who all are in possession of the petition schedule shop rooms. It was reported by the public information officer that the petitioner is conducting a Tuition Center in a building bearing No.KP 6/826-M, and that the owners of the said building are Hamna Naseer, Vinodan, Naseer, Ramla V.P., Sajeer Abdul Khader P., Mansoor T.V., and Sameera P.V.. The petitioner has obtained license only in respect of this building. The documents now produced by the petitioner along with the plaint relate exclusively to Building No.KP 6/826-M and not to the plaint schedule property. This court has gone through the plaint schedule description in detail. As per the description of the shop rooms in the plaint schedule descriptions the number of the shop rooms

are stated as KP 6/816, KP 6/819 and KP 6/817. As per Ext.B1 to B4 documents those shop rooms are leased out to Mr.Noushad and as per Ext.B6 the petitioner is in possession of a building different from what which is stated in the petition schedule. He is in possession of a building number KP 6/826-M. Therefore, from the documents produced it is revealed that the possession with respect to the petition schedule shop room is in doubt and the petitioner has not established his possession over the shop rooms as mentioned in the plaint schedule. The other interesting aspect is that in the application for commission with respect to the prosecution petition the petitioner has not asked anything with respect to the violation of injunction done by the respondents. But, has asked for the details of Mr.Noushad. This itself shows that the petitioner has approached this court with utmost unclean hands by suppressing the material facts of the case. Therefore, in the light of discussions the possession as on the date of suit is still in cloud and is not established before this court. Thus, the petitioner has failed to make out a prima facie case. The balance of convenience is not in favour of the petitioner but is in favour of the respondents. If the order of injunction is made absolute it will cause irreparable loss or injury to respondents as well. Hence, IA 2/2025 is dismissed and all the points are found against the petitioner. The order of injunction passed on 24.10.2025 stands vacated. Points found accordingly.

9. **Point No.5 :-** In the light of discussions held in point No.1 to 4,

IA 2/2025 is dismissed and order of injunction granted on 24.10.2025 is vacated.

***In the result, IA 2/2025 is dismissed and order of injunction granted on 24.10.2025 is vacated.***

(Dictated to Confidential Assistant, Typed by him in office computer corrected and pronounced by me, in Open Court, on this the 22<sup>nd</sup> day of November, 2025).

*Sd/-  
Civil Judge  
(Junior Division)*

Exhibits Marked:-

Petitioner's Exhibits:

- |    |   |            |   |  |
|----|---|------------|---|--|
| A1 | : | 25.03.2024 | : | Photocopy of Rent Kaychit Agreement executed in between Dr. Najiya and Dr. Najma as 1 <sup>st</sup> Party and Areekkara Hameed. N. K as 2 <sup>nd</sup> party. |
| A2 | : | 18.06.2024 | : | Registration Certificate issued by Kuttiady Grama Panchayath to Exon Science Institute, Kuttiadi.  |
| A3 | : | 04.04.2024 | : | GST Registration Certificate of Exon Science Institute, Kuttiadi.  |
| A4 | : | 2024-2025  | : | Pupil's Attendance Register of Exon Science Institute X <sup>th</sup> C, Kuttiadi.   |
| A5 | : | 2024-2025  | : | Particulars of strength register of Exon Science Institute, X <sup>th</sup> B, Kuttiadi.   |
| A6 | : | 2025-2026  | : | Particulars of strength register of Exon Science, Institute, X <sup>th</sup> A, Kuttiadi.  |

Respondents' Exhibits:-

- |    |   |            |   |  |
|----|---|------------|---|--|
| B1 | : | 30.10.2020 | : | Rent Kaychit Agreement executed in between K. K. Kunhabdulla and Noushad. C. |
|----|---|------------|---|--|

- B2 : 16.12.2022 : Rent Kaychit Agreement executed in between Dr. Najina and Dr. T. Najma as 1<sup>st</sup> Party and Noushad. C as 2<sup>nd</sup> party.
- B3 : 27.03.2025 : Rent Kaychit Agreement executed in between Dr. Najina and Dr. T. Najma as 1<sup>st</sup> Party and Noushad. C as 2<sup>nd</sup> Party.
- B4 : 28.05.2025 : Rent Kaychit Agreement executed in between Dr. Najma Muhammad and Dr. Najina as 1<sup>st</sup> and Noushad. C as 2<sup>nd</sup> party.
- B5 : 03.11.2025 : Cheque No. 236631 of Canara Bank, Kuttiadi Branch.
- B6 : 12.11.2025 : Photocopy of application as per RTI act and  
and information issued by state public  
18.11.2025 information officer, Kuttiadi Grama Panchayath.
- B7 : 18.06.2024 : Photocopy of Registration certificate issued by Kuttiadi Grama Panchayath to Exon Science Institute, Kuttiadi.

Court's Exhibits:-

- C1 : 20.11.2025 : Commission report filed by Adv. Adeb Salah. V. K.
- C2 : 20.11.2025 : Commission report filed by Adv. Adeb Salah. V. K.

Witness Examined:- Nil

*Sd/-  
Civil Judge  
(Junior Division)*

*/True Copy/*

*Civil Judge  
(Junior Division)*

Fair/Copy of order in IA 2/2025 in OS 132/2025.  
Dated : 22.11.2025.