

IN THE COURT OF THE MUNSIFF-MAGISTRATE, SASTHAMCOTTA.

Present : Sri. ANIL KUMAR T. S., MUNSIFF

Wednesday the 20th day of December, 2023

29th day of Agrahayana, 1945

OS.181/2018

Between

Plaintiff

Usha Kumari, aged 49 years,
W/o.Rajendran Nair,
Sasthamkundu Bungalow No. 194,
Attingal Panchayat XV, Attingal Muri,
Attingal Village, Attingal Taluk,
Thiruvananthapuram District.
Now residing at Naluthundil Veedu,
Panappetty muri, Sasthamcotta Village,
Kunnathoor Taluk.

(By Adv. P. Muraleedharan Nair)

And

Defendant

Krishnan Kutty, aged 48 years,
Chellappan Unnithan,
Aswathy Bhavanam,
Ayikkunnam Muri,
Sooranadu South Village,
Kunnathoor Taluk

(By Adv. Saiju Koshy)

COUNTER CLAIM IN OS. 181/2018**Between**

Counter Claim Plaintiff/
Defendant

Krishnan Kutty, aged 48 years,
Chellappan Unnithan,
Aswathy Bhavanam,
Ayikkunnam Muri,
Sooranadu South Village,
Kunnathoor Taluk

(By Adv.Saiju Koshy)

And

Counter Claim
Defendant/Plaintiff

Usha Kumari, aged 49 years,
W/o.Rajendran Nair,
Sasthamkunnu Bungalow No. 194,
Attingal Panchayat XV, Attingal Muri,
Attingal Village, Attingal Taluk,
Thiruvananthapuram District.
Now residing at Naluthundil Veedu,
Panappetty muri, Sasthamcotta Village,
Kunnathoor Taluk.

(By Adv. P. Muraleedharan Nair)

This suit and counter claim coming on for hearing before me on 20/12/2023 and on the same day the court delivered the following:-

J U D G M E N T

Suit for eviction and realization of arrears of rent.

2. The plaint averments in short are as follows:- The plaintiff owns the plaint schedule property having an extent of 2.48 Ares

comprised in block number 7 Resurvey 472/2 of Sooranadu South Village by virtue of sale deed number 849/2012 of Sooranadu SRO. The plaintiff has rented out the house situated in the plaint schedule property to the defendant with effect from 01.04.2014 for monthly rent of Rupees 3,000/- on the basis of rent agreement executed on 01.04.2014 renewable every once in 11 months. The defendant regularly paid rent until the month of December 2016 and defaulted on the payment of rent with effect from January 2017 and also refused to sign the renewed rent agreement. On 1st day of February, 2017 and on many other subsequent occasions, the plaintiff asked the defendant to vacate the house, which was refused by the defendant and continued his unauthorised occupation at the house owned by the plaintiff. Hence this suit came to be filed seeking eviction of the defendant and for realization of arrears of rent.

3. The defendant filed written statement along with counter claim. Since common facts are narrated in written statement and counter claim, the same are extracted hereunder in brief.

4. The plaint schedule property and a small house in it was owned by one Omana and the defendant had entered in to an agreement with her to purchase the property for a total consideration of 6 lakh Rupees and the defendant advanced an amount of Rupees 50,000/- to Omana on 25.04.2012 and agreed to sell the property to the defendant after receiving the balance sale consideration within 15 days. However, Omana demanded balance amount immediately and the defendant could not arrange balance amount. So, on 10.05.2022, he borrowed Rupees 2 lakh Rupees from the plaintiff, who was a money lender and as a security to the borrowed amount, the sale deed number 849/2012 was executed in favour of the plaintiff. The sale deed was executed on the promise that

the property would be re-conveyed once the amount borrowed was returned with agreed interest. Thereafter, with the consent of the plaintiff, the defendant constructed a house in the plaint schedule property by spending around 10 Lakh Rupees and he along with his family has been residing in that house. The defendant had returned Rupees 9,80,000/- including the borrowed amount and interest on it. But the plaintiff did not reconvey the property as promised citing lame excuses. The sale deed number 849/2012 relied on by the plaintiff is a sham document and it is to be declared as null and void. The plaintiff is a money lender and a land grabber. There is no landlord -tenant relationship between plaintiff and the defendant and the averments regarding arrears of rent are totally false. Hence the suit is liable to be dismissed and counter claim is to be allowed by declaring the sale deed number 849/2012 as null and void.

5. After filing highly contentious written statement and counterclaim, on the date of trial, the defendant remained absent. Hence, the defendant was set exparte.

6. In evidence, the plaintiff filed affidavit in lieu of chief examination wherein all the plaint averments have been reaffirmed. Exts. A1 to Ext A7 marked. Ext. A1 is the rent agreement, Ext A2 is the sale deed, Ext. A3 series are the land tax receipts, Ext A4. series are the building tax receipts, Ext. A5 is the notice issued to the defendant through lawyer and Ext. A7 is its postal acknowledgment card. Exts. A2 to Ext A4 series prove that the plaintiff is the owner of the plaint schedule property and the house in it. Ext. A1 is the rent agreement signed by the plaintiff and the defendant. In Ext .A1 the period of tenancy is shown as 11 months and that period is over. Now the defendant is a tenant by sufferance and he is bound to vacate the house mentioned in Ext. A1. The

evidence adduced by the plaintiff remains uncontroverted as the defendant has chosen to remain absent. In the above circumstances, the plaintiff is entitled for the reliefs sought and the counter claim is liable to be dismissed.

7. In the result, the suit is decreed as follows:-
 - (a) The defendant shall surrender vacant position of the house situated on the plaint schedule property within 30 days from the date of decree, failing which plaintiff can have recourse to the process of law for getting the defendant evicted.
 - (b) The plaintiff is entitled to recover Rupees 60,000/- from the defendant and his assets.
 - (c) Plaintiff is entitled to realise an amount of Rs. 3000/- with interest @ 6 % from the date of filing the suit till surrender of vacant possession of the house in the plaint schedule property, from the defendant and his assets.
 - (d) Plaintiff is also found entitled to realise the costs of the proceedings from the defendant.
 - (e) The counter claim is dismissed.

(Dictated to the Confidential Assistant, typed by him, corrected and pronounced by me in open court, this the 20th day of December, 2023.)

Sd/-
ANILKUMAR.T.S
MUNSIFF

APPENDIX :**Exhibits marked from the side of Plaintiff**

- A1 - 01/04/2014 - Rent agreement.
- A2 - 10/05/2012 - Original Sale deed No. 849/2012 of SRO, Sooranadu.

A3(Series)

- A3 - 01/09/2018 - Tax receipt issued by Village Officer, Sooranadu South.
- A3(a)- 14/11/2023 - Tax receipt issued by Village Officer, Sooranadu South.

A4(Series)

- A4 - - - Cash receipt No.118010101076 of Sooranadu South Grama Panchayath.
- A4(a) 14/11/2023 - Building Tax receipt No.1230301721/GO 2023 of Sooranadu South Grama Panchayat
- A5 - 03/09/2018 - Advocate notice.
- A6 - 03/09/2018 - Postal receipt.
- A7 - 05/09/2018 - Acknowledgement Card.

Exhibits marked from the side of Defendant : NIL**Court Exhibit :NIL****Witnesses examined from the side of Plaintiff**

- PW1 - 05/12/2023- Usha Kumari.

Witnesses examined from the side of Defendant : NIL

Id/-
MUNSIFF