

**IN THE COURT OF THE MUNSIFF OF TALIPARAMBA**

Present: Sri. Ashique Shajahan, Munsiff

Wednesday, the 5<sup>th</sup> day of July, 2023

(14<sup>th</sup> day of Ashadha, 1945)

**ORIGINAL SUIT No. 308 OF 2017**

Nhallimakkal Louly Rajesh, aged 44 years, W/o. Rajesh Chacko, )  
Sreekandapuram amsom desom, Sreekandapuram ) Plaintiff  
Municipality, Taliparamba Taluk, Kannur District. )

**Vs.**

1. Korambeth Sanil, aged 30 years, S/o. Kannan, Employed )  
in Insurance Company, Chelora amsom, Macheri desom, )  
Kannur Taluk and District. ) Defendants
2. Chelankara Prasad C, S/o. Kunhikannan, aged 43 years, )  
Chelora amsom, Macheri desom, Mouvancheri Post, )  
Kannur Taluk and District – 670 613. )

**COUNTER CLAIM:**

1. Korambeth Sanil, aged 30 years, S/o. Kannan, Employed )  
in Insurance Company, Chelora amsom, Macheri desom, )  
Kannur Taluk and District. )
2. Chelankara Prasad C, S/o. Kunhikannan, aged 43 years, ) Counter claim  
Chelora amsom, Macheri desom, Mouvancheri Post, ) Petitioners.  
Kannur Taluk and District – 670 613. )

**Vs.**

Nhallimakkal Louly Rajesh, aged 44 years, )  
W/o. Rajesh Chacko, Sreekandapuram amsom desom, ) Respondent.  
Sreekandapuram Municipality, Taliparamba Taluk, )  
Kannur District. )

This Suit coming on this day for hearing before me in the presence of M.C. Ramachandran and B Sujatha, Advocates for the Plaintiff and respondent in counter claim; C. Krishnan, Advocate for the defendants and petitioners in Counter claim and the court delivered the following:

### **J U D G M E N T**

The suit is for permanent prohibitory injunction restraining the defendants from forcefully evicting the plaintiff and her family from the house in the plaint schedule property.

2. The defendants entered appearance and filed written statement along with a counter claim.

3. The averments in the counter claim briefly are as follows: Plaintiff sold the plaint schedule property to the defendants on receiving valid consideration of ₹4,44,000/- (Rupees Four lakh forty four thousand only) as per deed of jenm assignment dated 21.11.2013. The said document is not executed as a security as alleged by the plaintiff. The plaintiff has vacated the house and the house building was kept locked by the defendants on the date of execution of document No. 3192/2013. At the request of the plaintiff, she was allowed to occupy the house in the plaint schedule property for a month so as to enable her to find out an alternative accommodation for the residence of herself and her

family. The plaintiff has vacated the house as agreed after one month and handed over possession of the same to the defendants and the defendants have locked the building and have been exclusive possession and enjoyment of the same. The defendants are residing about 45 kilo meters away from the plaint schedule property. Taking advantage of the absence of the defendants, the plaintiff has trespassed into the plaint schedule property during the month of June 2017 broke open the lock of the house and started to reside therein. When the defendants came to know about this, the defendants have asked the plaintiff to vacate the house. The plaintiff has agreed to vacate the premises after Onam festival. But the plaintiff did not vacate the house as agreed. Instead of vacating the premises, the plaintiff filed the above suit for injunction. As the plaintiff is a rank trespasser of the plaint schedule property, she has no lawful right to continue the possession of the plaint schedule property. Hence the defendants preferred this counter claim for eviction of the plaintiff from the plaint schedule property on the strength of defendants' title.

4. On the listed day of trial, the plaintiff remained absent and the counsel for the plaintiff reported no instruction. Hence the suit is dismissed for default.

5. The second defendant/second counter claim plaintiff filed proof affidavit and examined as DW1. Exts. B1, B2, B2(a) to B2(c), B3, B4 and B4(a) are marked. As the plaintiff/counter claim defendant absent, the evidence of DW1 and Exts. B1, B2, B2(a) to B2(c), B3, B4 and B4(a) remained unchallenged. The unchallenged testimony of DW1 and documentary evidence would establish the case of the counter claim plaintiffs. Hence the counter claim plaintiffs are entitled to obtain a decree.

**In the result**, the suit is dismissed for default and the counter claim is decreed as follows.

1. The plaintiff shall put the counter claim plaintiffs/defendants in possession of the house and everything contained in the plaint schedule property.
2. The plaintiff shall pay cost of the suit and of the counter claim proceedings to the defendants/counter claim plaintiffs.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open court this the 5<sup>th</sup> day of July 2023)

**MUNSIFF**

**Plaintiff's Exhibits:-** Nil.

**Defendants Exhibits:**

- |       |            |  |
|-------|------------|--|
| B1    | 22-11-2013 | Jenmam Theeradham executed by Louli Rajesh infavour of Korambeth Sanil and another.        |
| B2    | 31-11-2013 | Basic Tax receipt issued by Sreekandapuram Village Officer to Korambeth Sanil and another. |
| B2(a) | 31-12-2013 | Basic Tax receipt issued by Sreekandapuram Village Officer to Korambeth Sanil and another. |
| B2(b) | 17-11-2014 | Basic Tax receipt issued by Sreekandapuram Village Officer to Korambeth Sanil and another. |
| B2(c) | 24-06-2017 | Basic Tax receipt issued by Sreekandapuram Village Officer to Korambeth Sanil and another. |
| B3    |            | Receipt issued by Sreekandapuram Grama Panchayath to Korambeth Sanil and another.          |
| B4    |            | Receipt issued by Sreekandapuram Grama Panchayath to Korambeth Sanil and another.          |
| B4(a) |            | Receipt issued by Sreekandapuram Grama Panchayath to Korambeth Sanil and another.          |

**Plaintiff's Witnesses:-** Nil.

**Defendant's Witness:**

DW1 : Chelankara Prasad.

**MUNSIFF**

