

IN THE COURT OF THE MUNSIFF, CHANGANACHERRY

Present :-Smt. Sarica A.R , Munsiff

Friday1st day of August, 2025

10th Sravanam, 1947

I.A.No.1/2025 IN O.S. No.20/2025

Petitioner/Plaintiff:-

P.K Muhammed Rafi, aged 72 years,S/o Kasim Bava,
ParakkavettyPuthenveedu,Perunnai,
Changanacherry Village, Changanacherry P.O
Changanacherry Taluk.

By Adv. Bobban T Thekkel

Respondents/Defendants:-

1. Shohaib Rafi,aged 36 years, S/o P.K MuhammedRafi,
ParakkavettyPuthenveedu,Perunnai,
ChanganacherryVillage, Changanacherry P.O
Changanacherry Taluk.
2. P.H Abdul Azeez, aged 71 years, S/o Hameed Rawther,
Manager,Abhilash Tourist Home,MYMARoad,
ParakkavettyPuthenveedu,Perunnai,
ChanganacherryVillage, Changanacherry P.O
Changanacherry Taluk.

Adv. N.C Preny

This petition is coming up for consideration before this Court on 01.08.2025 and the court on the same day passed the following :-

ORDER

Application filed for appointment of a receiver for managing and administering the affairs of "Abhilash Tourist Home".

2. Averments in the petition are as follows:- The plaintiff has filed the suit for rendition of accounts of the rent/ income from Abhilash Tourist Home situated in plaint schedule property. The petitioner transferred the plaint schedule property in favour of his son, as per Settlement Deed No.1548/2020, reserving the right to collect rent from the tenants of the building and to give the building on rent during his lifetime. This tourist home is functioning in the plaint schedule property, and the second defendant, Manager was employed by the plaintiff. The plaintiff used to get an average rent of ₹8,500/- per day from the tourist home and has been collecting the rent from the plaint schedule property till 23.11.2023. Thereafter, the petitioner has been prevented by the first defendant from entering into the plaint schedule property. The first defendant has also been misappropriating the income from the tourist home. As per the terms of the settlement deed, the right to collect rent from the tenants and give the building on rent during his lifetime is reserved with the petitioner. The first defendant has acted in violation of the terms and conditions, and the second defendant

has failed to render the true accounts of the rent collected from the tourist home since 23.10.2023. The first defendant is illegally collecting income from the tourist home and the defendants are mismanaging the tourist home and not giving the true and correct accounts. This petition to preserve the subject matter of the suit and safeguard the interest of the plaintiff.

3. The contentions put forth by the respondent/defendant is that the plaint schedule property in CMC VIII/296 and CMC VIII/297 was transferred to the respondent by Settlement Deed No. 1548/2020 and this property along with the property received in Settlement Deed No.1549/2020 having an extent of 4 Ares and 3 sqm in survey 5/1-1 is mutated in the name of the first defendant who has been in possession and enjoyment of the same, and has also been paying land tax for the same. The 2nd defendant, Manager was appointed by the father of the plaintiff. The petitioner has been collecting rent from the petition schedule property. The petitioner was never prevented from entering into the plaint schedule property nor has the 1st defendant illegally collected income from the tourist home. That there was violation of the terms of the settlement deed, and that no proper accounts were rendered from 23.10.2023 are false. There was no waste committed on the tourist home by

the defendants. There is no explanation as to breach of trust caused between the parties. No proper reason has been shown by the plaintiff for appointing a receiver. This suit is for evicting the first defendant, who is in possession of plaint schedule property, and the second defendant who is the Manager. The petitioner has no right to ask for the relief of appointing a receiver with respect to a property in the ownership and possession of the first defendant. The petitioner has been receiving the daily income from the tourist home, and there has been no mismanagement. OS 23/2024 filed by the plaintiff for receiving the incidence from this tourist home. OS 289/2021 is filed by the 1st defendant against the plaintiff to prevent trespass in the tourist home in his ownership and possession along with obstruction to its functioning. Thus, this petition ought to be dismissed.

4. The point to be decided is, whether appointment of a receiver is necessary in the circumstances of the case.

5. Heard both sides.

6. Point:- "Abhilash Tourist home" is said to be in the ownership and possession of the 1st defendant. The counsel of the plaintiff argued that the petitioner transferred the plaint schedule property in favour of the 1st defendant, as per Settlement Deed No. 1548/2020, reserving the right to collect

rent from the tenants of the building and to give the building on rent during his lifetime. The second defendant, was employed as a Manager therein. The plaintiff avers that he used to get an average rent of ₹8,500/- per day from the tourist home and has been collecting the rent from the plaint schedule property till 23.11.2023. The petitioner states that the first defendant has acted in violation of the terms and conditions of the settlement deed and that the second defendant has failed to render the true accounts of the rent collected from the tourist home since 23.10.2023.

7. The respondent stated in his objection that the petitioner has been collecting rent from the petition schedule property and that the 1st defendant has never illegally collected income from the tourist home. That there was violation of the terms of the settlement deed, and that no proper accounts were rendered from 23.10.2023 was denied. The respondent also submitted to OS 23/2024 filed by the plaintiff for receiving the incidence from this tourist home and OS 289/2021 is filed by the 1st defendant against the plaintiff to prevent trespass in the tourist home in his ownership and possession along with obstruction to its functioning.

8. While the terms of the settlement deed, it's violation and like are matters that are to be determined based on evidence

adduced in trial. A vacuum cannot occur in the administration of the tourist home. The counsel for the plaintiff argued that the plaintiff is a senior citizen, dependent on the income from this tourist home and that he is deprived of his income by the first respondent. In this circumstance, it will only be just and convenient that the affairs of the tourist home be managed through a receiver. It is only reasonable that a receiver from the panel of receivers be appointed for managing the affairs of the aforementioned Abhilash Tourist Home, until determination of matters in issue in the suit.

In the result, the application is allowed as follows:

- 1) A receiver from the panel of receivers approved by the Hon'ble District Court, Kottayam shall be appointed as receiver for managing and administering the affairs of Abhilash Tourist Home.
- 2) Office shall address the Hon'ble District Court requesting for a copy of the panel of approved receivers.
- 3) Parties shall suffer their respective costs.
- 4) Once appointed, the receiver shall take stock of the situation and seek appropriate directions

for his smooth functioning including submitting periodic reports to the court with respect to the accounts of Abhilash Tourist Home.

(Directly typewritten into my personal laptop, corrected by me and pronounced by me in open court on this the 1st day of August, 2025.)

Sd/-
SARICA A.R
MUNSIFF

APPENDIX:- NIL

Id/-
MUNSIFF

//True Copy//

Copied by:
Compared by:

Sd/-
SARICA A R
MUNSIFF

