

**IN THE COURT OF THE MUNSIFF, VARKALA
PRESENT : SRI. SANDEEP KRISHNA.V, MUNSIFF
TUESDAY 30th MARCH, 2021/ 8th CHAITHRA, 1943**

OS 238/2019

PLAINTIFF:-

Athira Asok, D/o Asok, aged 24 years, residing at
S.L. Bhavan, Poikamukku, Avanavancherry from
Puthooram Veedu, Vettukadu, Manamboor Village.

By Adv. Smt. V.S. Geetha

DEFENDANT:-

Geetha, D/o Thankamma, aged 46 years, residing at
Puthooram Veedu, Vettukadu, Manamboor Village
from Kairate Bhavan, Koyippadu, Chathanoor P.O.

(Exparte)

This original suit is coming on for hearing on 23-03-2021 and the court on the 30-03-2021 delivered the following:

JUDGMENT

1. This is a suit for declaration of title and eviction.

2. **Plaintiff filed the suit stating the following facts:-** Defendant is the step mother of the plaintiff. The father of the plaintiff married the defendant after the death of his first wife, mother of the plaintiff, Prathibha Kumari. The plaint schedule property originally belonged to the father of the plaintiff, Asokan and mother of the plaintiff, Prathibha Kumari. After the death of Prathibha Kumari, the plaintiff became co-owner of the plaint schedule property. The father of the plaintiff, Asokan, married the

defendant on 18/06/2017 at Vanchikuzhi Devi Temple, Chathannoor. Before the marriage, the plaintiff along with her relatives visited the defendant at her residence and informed her that the defendant will not have any right over the plaint schedule property. After marriage of the plaintiff's father with the defendant, the plaintiff's father who was working abroad returned back for his job abroad; the defendant was then residing at plaintiff's father's mother's sister's house. Later, plaintiff's father returned from abroad after loosing his job there. The plaintiff's father and the defendant were not having good relationship. The plaintiff's father purchased another property and building on 25/03/2019 and shifted the residence to his new property. Till then, the plaintiff, her husband, her father and defendant were residing in the building in the plaint schedule property. Even though the plaintiff's father shifted to his new property and building, the defendant refused to go along with him. The defendant is residing in the building in the plaint schedule property forcefully. Defendant does not have any manner of right or authority to reside in the building in the plaint schedule property which is fully owned by the plaintiff herself. The defendant is filing suits after suits against the father of the plaintiff. She is filing false complaints against the plaintiff before police authorities. Defendant manhandled the plaintiff while residing in the building in the plaint schedule property. The plaintiff is pregnant and due to the intolerable attitude of the defendant, she started to reside along with her grandmother. The plaintiff is unable to reside in the building in her property. Defendant, who does not have any right or authority over the plaint schedule property and building is forcefully taking income from the plaint schedule property and utilising the household utensils therein. Defendant destroyed the front door lock of the house. Even though the

plaintiff made several complaints before police authorities, the defendant did not vacate from the building so far. In these circumstances, the plaintiff filed the present suit.

3. Summons was served on the defendant. She entered appearance. But, she did not file vakalath or written statement. Defendant was therefore set exparte.

4. To prove the plaintiff's case, plaintiff examined herself as PW1 and brought to evidence Ext.A1 to Ext.A4. Heard.

5. Plaintiff filed affidavit in lieu of chief examination reiterating the facts stated in the plaint. To prove her title over the plaint schedule property, plaintiff produced Ext.A1, the settlement deed executed by the father of the plaintiff along with one Manidas and Sarala Devi in favour of the plaintiff. It appears from the recitals in Ext.A1 that all the legal heirs of late Prathibha Kumari, the mother of the plaintiff, jointly executed Ext.A1 conferring plaintiff title over the plaint schedule property. Ext.A2 proves that after Ext.A1, mutation is effected in the revenue records in favour of the plaintiff. Plaintiff therefore clearly proved that she obtained title to the plaint schedule property. Ext.A3 is a copy of legal notice demanding the defendant to vacate from the plaint schedule property. Ext.A4 proves that the defendant accepted that notice. PW1 testified that the defendant did not vacate from the plaint schedule property. The evidence tendered by the plaintiff clearly prove that she has title over the plaint schedule property and further that the defendant does not have any right or authority to keep possession of the plaint schedule property. The plaintiff is therefore entitled to recover possession of the plaint schedule property from the defendant, after evicting the defendant.

6. In the result, suit is decreed as follows:-

1. It is hereby declared that the plaintiff has title over the plaint schedule property.
2. Defendant is directed to vacate from the plaint schedule property and building therein within 30(Thirty) days from the date of this judgment. If the defendant fails, the plaintiff is entitled to evict the defendant from the plaint schedule property through Court and to recover its expenses from the defendant.
3. Plaintiff is entitled to the costs of the suit.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court, this the day of 30th March, 2021.

**SANDEEP KRISHNA.V,
MUNSIFF, VARKALA.**

APPENDIX :-

Exhibits for Plaintiff:-

A1	-	22-11-2018	Settlement deed No. 1353/2018.
A2	-	01-12-2018	Tax Receipt
A3	-		Copy of Advocate Notice
A4	-	22-04-2019	Acknowledgement

Witness for Plaintiff:-

PW1	-	23-03-2021	Athira Asok
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MUNSIFF

Typed by : David. D

Compd. by.

**COPY OF JUDGMENT IN O.S. 238/2019
DATED: 30.03.2021**