

IN THE COURT OF THE MUNSIFF OF ALATHUR

Present:- Sri.Binu.P., Munsiff, Alathur

Monday 15th day of December, 2025

(24th day of Agrahayana, 1947 S.E)

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INTERLOCUTORY APPLICATION No.11/2025 (2078/2025)

IN

ORIGINAL SUIT No. 188/2023

Sunil, aged 59 years, S/o Krishnan, Photographer,
residing at Chithavu, Ayiloor Post, Chittur Taluk,
Palakkad. } Petitioner/
Plaintiff

Vs.

1. Melarcode Grama Panchayath, Melarcode Post,
Alathur Taluk, Palakkad District.
 2. The Secretary, Melarcode Grama Panchayath,
Melarcode Post, Alathur Taluk, Palakkad District.
- } Respondents/
Defendants

This petition is coming on this day for final hearing before me in the presence of Sri. N.R.Venkataranayanan, Sri.Arjun Kisore and Smt.Sowmya Iyer, Advocates for the petitioner and of Sri.V.Mani, Advocate for the respondents and this court passed the following.

ORDER

The petitioner filed the petition under Order XXXIX Rules 1, 2 and Section 151 of the Code of Civil Procedure.

2. The petition allegations in brief are as follows :

The petitioner is the plaintiff. The suit one for permanent prohibitory injunction. In the suit, this court has already granted temporary injunction against the respondents from evicting the petitioner from the petition schedule property otherwise than by due process of law vide order dated 23.10.2024. This court has already found that the Kerala Public Buildings (Eviction of Unauthorised Occupants) Act is applicable to the case at hand. The process of eviction of unauthorised occupants is as contemplated under Sections 4 and 5 of the said Act. Despite filing a counter statement on 21.02.2025 and seeking time for a hearing, the respondent has passed an order on 01.07.2025 by denying the defendants a chance to tender evidence. Despite several requests, the case was not posted for evidence or a hearing, and the Estate Officer has unilaterally passed the impugned order based on his vested interests. The impugned order was passed without following due process. The order passed is in grave violation of the temporary injunction issued by this court and is against the principles of natural justice. Now the respondents are taking steps to evict the petitioner and the other occupants by taking the assistance of the Police based on the impugned order. The petitioner has preferred complaint before the Ombudsman and the District Collector against the unlawful order passed by the respondent. Hence the petition.

3. The respondents filed counter with the following effect :

The petition is not maintainable. The Estate Officer passed an order of eviction on 01.07.2025. The said order was passed legally and also in

accordance with the order in IA 1/2023. This court has no jurisdiction to entertain the petition against such an order. The remedy of the petitioner is to file an appeal before the District Collector, and the District Collector has authority to stay the proceedings. The petitioner has not preferred any appeal before the District Collector. The petitioner has equally and efficacious relief as per Section 41(h) of the Specific Relief Act. The order was passed by the Estate Officer after giving sufficient opportunity to the petitioner for adducing evidence. The petitioner is an unauthorised occupant. The show cause notice contemplated under Section 4 of the Act was issued on 23.12.2024. The petitioner received notice and filed vakalath on 16.01.2025. After giving the petitioner sufficient opportunity, the counter was filed on 21.02.2025. The petitioner has not opposed or denied the fact that he is an unauthorised occupant. After following the proper procedure, the final order was passed on 01.07.2025. After the expiry of the time provided, the respondent started the due process of eviction. For the reasons stated, the petition is to be dismissed.

4. No documents marked from the side of the petitioner. From the side of the respondents exhibits B1 to B4 were marked. Exhibit B2 was marked with objection.

5 The following points arise for consideration:-

1. Whether the petitioner made out a prima facie case and balance of convenience in his favour ?
2. Whether the petitioner will be put in irreparable hardship if the injunction is not granted?
3. Reliefs and costs?

6. Heard both sides.

7. Points No.1 and 2 :- The petitioner sought the relief of permanent prohibitory injunction restraining the respondents from forcefully evicting the petitioner from the petition schedule building on the strength of the impugned

order dated 01.07.2025 passed by the respondent against the essence of the temporary injunction order passed by this court in I.A No.1/2023 till the disposal of the suit.

8. Admittedly, this court has granted a temporary injunction in I.A. No.1/2023 dated 23.10.2024 by restraining the respondents, their men and their subordinates from evicting the petitioner from the petition schedule building forcefully, otherwise than due process of law.

9. Petitioner is presently challenging the order of estate officer by contending that the said order is vitiated by gross procedural irregularities and a complete violation of the principles of natural justice. It is specifically alleged that, despite filing counter statement, and continuously seeking time to produce evidence and documents in support of his defence. The Estate Officer hurriedly and arbitrarily proceeded to pass the order without affording the petitioner any reasonable opportunity of hearing. The petitioner asserts that, though a request was made for calling a report from a competent neutral structure engineer to arrive at a just and proper conclusion, the estate officer failed to consider the same and unilaterally acted in a manner that demonstrates bias and vested interests. It is further alleged that the matter was never posted for evidence, nor was the petitioner granted a fair chance to substantiate his contentions, thereby rendering the impugned order blatantly illegal, invalid in the eyes of law, and incapable of execution. The petitioner further asserts that the respondents are attempting to act upon the unlawful order to forcibly evict him with police assistance, causing irreparable injury and hardship.

10. Exhibit B1 is the notice issued by the Panchayat under Section 4 of the Kerala Public Buildings (Eviction of Unauthorised Occupants) Act. Exhibit B2 is the extract of the meeting and its decisions. Exhibit B3 is the notice dated 21.01.2025. Exhibit B4 is the adjournment application filed by the counsel for the petitioner herein before the Secretary, Melarcode Grama Panchayat seeking

time for filing the statement.

11. In this case, this court had already an interim injunction restraining the respondents from forcibly evicting the petitioner otherwise than by the process of law. At that stage the matter in issue had begun with the issuance of demand notice for eviction of the petitioner from the petition schedule building. The legality and authority of the respondent were challenged by contending that the notice was issued without statutory compliance.

12. Now the estate officer passed an order of eviction under Section 5 of the Kerala Public Buildings (Eviction of Unauthorised Occupants) Act, 1968. In the present petition, the petitioner seeks to interdict the operation of the statutory eviction over. The respondent has raised a specific contention that the present IA is not maintainable as it provides an effective statutory remedy for appeal before the District Collector under Section 10 and further that Section 15 of the Act, expressly bared the jurisdiction of Civil Court in respect of matters which the estate Officer or the appellate authority is empowered to determine.

13. Section 10 of the Act reads thus “Appeals.—(1) An appeal shall lie from any order of the estate officer made in respect of any public building under section 5 or section 8 to the Collector of the District in which the public building is situate.

14. Section 15 says finality of orders.—Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any suit, application or execution proceeding, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

15. As per Section 17 - Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Government or a local authority 1 [or a company or a corporation] or the appellate authority or the

estate officer or any other officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.”

16. On a careful consideration of the rival submissions and statutory schemes of Kerala Public Buildings (Eviction of Unauthorized Occupants) Act, 1968 it is evident that once an order of eviction is passed under Section 5 and the aggrieved person has to necessarily work out his remedy only in the manner provided under the Act. The statute provides a complete machinery for redressal, including an appellate remedy. In view of the express bar of jurisdiction under Section 15, this court is denuded the power to sit in appeal over or grant any injunction against the operation of an eviction order passed by the estate officer.

17. In the present case, the petitioner has an efficacious alternative remedy of appeal before the District Collector, which he has failed to invoke. Instead of availing such a remedy, he has once again approached this court by filing this IA. In view of the above discussion, this court hold that the present IA is not maintainable. Hence, points No.1 and 2 are answered against the petitioner.

18. Point No.3 :- In the light of the findings under points No.1 and 2, this point is also answered against the petitioner.

In the result, the petition is dismissed.

Dictated to Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court, on this the 15th day of December, 2025.

Munsiff

APPENDIX :-

Petitioner's Witness & Exhibits :- NIL

Respondents Witness Examined:- NIL

Respondents Exhibits Marked:-

- | | | | |
|----|------------|---|--|
| B1 | 23.12.2024 | : | Copy of notice issued by the Secretary,
Melarcode Grama Panchayth in the name of
Sunil |
| B2 | 16.01.2025 | : | Extract of meeting and its decisions |
| B3 | 21.01.2025 | : | Copy of notice (hearing) sent by Secretary,
Melarcode Grama Panchayth in the name of
Sunil |
| B4 | 05.02.2025 | : | Adjournment application submitted by N.R.
Venkitanarayanan Advocate for petitioner before
the Secretary, Melarcode Grama Panchayth |

Court Witness & Exhibits:- NIL

Munsiff

Fair/ Carbon/ Copy in

IA. No.11/2025

in O.S.No.188 /2023

Dated: 15.12.2025

