

IN THE COURT OF ADDITIONAL MUNSIFF-III
THIRUVANANTHAPURAM

Present: Sri. Jayanthan.L, Additional Munsiff-III

On Thursday 1st day of June, 2023/11th Jyaishta, 1945

IA 1/2022 in OS No.1398/2022

Petitioners/Plaintiffs:-

1. Jayasree.R.S, aged 37 years,
W/o Satheesh Kumar, residing at
T.C.43/1405, Kakkottukonathu Veedu,
Thirumala, Vallakkadavu.P.O,
Thiruvananthapuram-695 008
2. Satheesh Kumar, aged 45 years,
S/o Sukumaran Nair, TC 13/1210,
Friends Maruthi Service Centre,
Kannammoola, Medical College.P.O,
Thiruvananthapuram-695 011

By Adv. Sri. V.R.Swaminathan

Counter Petitioner/Defendant:-

Luseena Justus, aged about 52 years,
W/o T.K.Justus, residing at Orekkar Veedu,
Kottakkakam, Vithura Village,
Vithura.P.O, Nedumangadu,
Thiruvananthapuram-695 551

By Adv. Sri. M.Muralikumar

This petition is having been finally heard on 23.05.2023 and
the court on 01.06.2023 passed the following.

ORDER

1. This is an application for temporary prohibitory injunction.

2. The petition averments in brief are as follows : The 2nd plaintiff running an automobile work shop in the plaint schedule property name and style as M/s. Friends Maruthi Service Centre, at building No.T.C.13/1210 and property in Sy. No.273 in Kadakampally Village in Thiruvananthapuram. The plaintiffs have taken the said premises on lease on a monthly rent of Rs.4,000/- and a security deposit of Rs.35,000/- from its owner who is the defendants. After the expiry of the last rent agreement, the defendants had renewed and executed a new lease in favour of the 1st plaintiff. The said agreement was executed for a period of 3 years. As per the said agreement the plaintiff had to pay a monthly rent of Rs.4,000/- to the defendant. On 22/09/2022 the agents of the defendant have come to the plaint schedule premises and without an cause had

threatened the staff of the plaintiff to vacate the premises within a week. The plaintiff had made huge investments in the plaintiff schedule premises to setup the workshop. Hence this application.

3. The respondent filed objection contending as follows :
The plaintiff schedule property was owned by father in law of the defendant who is possessed the said property. The plaintiff schedule property included in Sy. No.273 of Kadakampally Village. The 1st plaintiff and defendant entered into rental agreement on 5/5/2015 for a monthly rent of Rs.4,000/- and advance amount of Rs.35,000/-. As per rental agreement it is a monthly rental agreement not a lease agreement. The rental agreement entered between the 1st plaintiff and defendant which elapsed on 4th May 2018. The defendant demanded the plaintiffs to vacate the possession of the building for defendants own purpose to start construction of a house. The period of rental agreement elapsed on 4/5/2018. The defendant repeatedly demanding monthly rent of Rs.4,000/- to the plaintiffs. But till

elapsing the period of four years the plaintiffs never initiated any steps to vacate the premises or paying the arrears of the monthly rent, approximately Rs.2,09,000/- as arrears of rent deducting advance amount paid by the plaintiffs. Hence seeks dismissal of this application.

4. Exts.A1 and A2 are marked from the side of the petitioner. Exts.B1 to B4 are marked from the side of the respondent. Commission report and plan are marked as Ext.C1.

5. Heard both sides and perused the records.

6. The following points arised for consideration.

1) Is the petitioners entitled for an order of temporary prohibitory injunction as prayed for?

2) Reliefs and costs.

7. **Point No.1:-** Ext.A1 is the agreement dated 19/12/2011 executed between the petitioner and defendant. Ext.A2 is the agreement dated 5/5/2015 executed between the petitioner and the respondent. The petition is filed by the

petitioner for an order restrained the respondent from evicting the petitioner forcefully from the plaint schedule premises and from committing waste in the plaint schedule. The petitioner had need to prove that she is in present possession of the plaint schedule premises. The defendant contends that the petitioner is not in possession of the plaint schedule property. Ext.B1 is the KSEB bill. Ext.B2 is the tax receipt from Municipal Corporation. Ext.B3 is the reply under Right to Information Act. Ext.B4 is the notice from Thiruvananthapuram Corporation.

8. In Ext.C1 the advocate commissioner reported that there was a workshop in the plaint schedule property which is now in a collapsed condition. The advocate commissioner extensively described the collapsed condition of the workshop in the plaint schedule property. A photograph also attached with the commission report which shows the collapsed condition of the plaint schedule property. Therefore it can be concluded that the petitioners are not in possession of the plaint schedule

property. The petitioners also not adduced any other evidence to prove the crucial aspects of possession of plaint schedule property at the present. Instead through Ext.C1 it is clear that the petitioners are not in present possession of the plaint schedule property. Hence the petitioners are not entitled for the relief sought.

Point No.2 : In result this I.A is dismissed. Both parties shall suffer their costs.

Dictated to the Confdl.Asst., typed by her, corrected by me and pronounced in open court on this the 1st day of June, 2023.

Sd/-
Jayanthan. L
Additional Munsiff-III

Appendix:

Exhibits for the Petitioners/Plaintiffs:-

A1 19.12.2011 Agreement
A2 05.05.2015 Agreement

Exhibits for the Counter Petitioner/Defendant:

B1 21.10.2022 KSEB Bill
B2 19.05.2014 Tax receipt

B3	04.03.2023	Reply under Right to Information Act
B4	Nil	Notice from Thiruvananthapuram Corporation

Court Exhibits:

C1	10.01.2023	Commission report and plan
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Witness for both sides: Nil

Id/-

Additional Munsiff-III

//True copy//

Additional Munsiff-III

Typed by: Shahana.S
Compared by:
FCS:

True Copy of Order in
I.A. No.1/2022 in O.S. No.1398/2022
Dated: 01/06/2023