

IN THE COURT OF ADDITIONAL MUNSIFF - III,
THIRUVANANTHAPURAM

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

On Monday 19th day of February, 2024 / 30th Magha, 1945

O.S No.1363/2021

Plaintiff:-

Meena V. Menon aged 70 years,
W/o N.V. Menon, residing at T.C. 17/1387,
R.N.J Bhavan, KNRA 118,
Poojappura, Poojappura Village,
Thiruvananthapuram – 695012

By Adv.Sri. R. Kunjukrishnan Potti

Defendant:

Nair Satheesh, aged 50 years,
S/o Krishnan, Nandanam Apartment,
Sankaran Park Road, Mudavanmughal,
Poojappura, Poojappura Village,
Thiruvananthapuram PIN 695012

Exparte

This Suit is having been finally heard on 01.02.2024 and
the Court on the 19.02.2024 delivered the following.

JUDGMENT

1. This is a suit for declaration, injunction and other
consequential reliefs.

2. The plaint averments in brief are as follows:-

The plaintiff is the absolute owner in possession and enjoyment of the plaint schedule property having acquired as per sale deed No.1578/2012 of Kazhakuttom Sub Registry Office. The plaintiff permitted the defendant to use and occupation of the first floor of the residential building from 21/01/2021. The defendant represented and made the plaintiff believe that he is to start a chitty business along with the financial business carried on. The plaintiff executed a nominal sale deed showing a meagre consideration in favour of the defendant for the plaint schedule property on 15/11/2021. A cheque was issued in favour of the plaintiff drawn on the Indian Bank, Poojappura branch dated 12/11/2021. On account of the charge of events the plaintiff presented the cheque on 19/11/2021 to bank. But the cheque was returned unpaid on the ground 'Funds Insufficient'. The defendant's attempt it is reveled was to sell the property to strangers receive consideration and appropriate the same. The possession of the property was not given to the defendant. The sale deed dated 15/11/2021 is only a sham document and was

never intended to take effected or to be acted upon. Hence this suit.

3. Defendant is set exparte.

4. Filed chief affidavit and examined as PW1. Exts.A1 to A8 are marked from the side of plaintiff. Commission report is marked as Ext.C1.

5. Heard the plaintiff and perused the records.

6. The plaintiff deposed through chief affidavit in tune with the plaint averments. Ext.A1 is the sale deed No.2972/2021 dated 15/11/2021. Ext.A2 is the cheque No.297307 of Indian Bank, Poojappura branch. Ext.A3 is the memo. Ext.A4 is the sale deed No.1578/2012 dated 16/04/2012. Ext.A5 is the tax receipt. Ext.A6 is the Internet payment receipt. Ext.A7 is the memorandum. Ext.A8 is the SBI pass book. Advocate commissioner identified the plaint schedule property. It is pertinent to note that the defendant has not rebutted the version of the plaintiff. Hence the evidence of the plaintiff remains unchallenged and there is no reason for disbelieving the version of the plaintiff. The unrebutted version in the chief

affidavit when considered with available evidences would prove the claim of the plaintiff by preponderance of probabilities. Hence this suit is liable to be decreed.

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

- (i) It is declared that the sale deed No.2972/2021 dated 15/11/2021 of Kazhakuttom Sub Registry Office standing in the name of the defendant is sham and nominal and that the defendant has not acquired any right title or possession over the plaint schedule property.
- (ii) The defendants are restrained from trespassing into the plaint schedule property.
- (iii) The plaintiff is entitled to realize the costs of the suit from the defendant.

Dictated to the Confdl.Asst., typed by her, corrected by me and pronounced in open court on this the 19th day of February, 2024.

Sd/-
JAYANTHAN.L
ADDITIONAL MUNSIFF-III.

APPENDIX:-**Exhibits marked for the Plaintiff:**

A1	15.11.2021	Sale deed No. 2972/2021
A2	12.11.2021	Cheque No. 297307 of Indian Bank, Poojapura Branch
A3	20.11.2021	Memo
A4	16.04.2012	Sale deed No. 1578/2012
A5	05.11.2020	Tax Receipt
A6	12.11.2021	Internet payment receipt
A7	30.04.2022	Memorandum
A8	28.09.2022	SBI Pass book

Exhibits marked for the Defendant : Nil**Court Exhibits:**

C1 12.10.2022 Commission Report

Witness examined for the Plaintiff:-

PW1 11.01.2024 Meena. V. Menon

Witness examined for the Defendants : Nil

Id/-

Additional Munsiff – III

//True copy//

Additional Munsiff – III

Typed by:Archana
Comp.by:
FCS

True Copy of Judgment in
O.S.No.1363/2021
Dated: 19.02.2024