

IN THE COURT OF THE MUNSIF, KARUNAGAPPALLY

Present: Smt Aswathy Nair, Munsiff, Karunagappally.

Monday 30th day of September, 2024/ 8th day of Aswina, 1946.

OS.No.529/2022

Between

Plaintiff:

Madhukumar, Aged 45 years,
S/o Sidharthan, Kumar Bhavanam,
Prayar North Muri, Puthuppally Village,
Karthikappally Taluk.
By Adv.V.Vidyasagar.

And

Defendants

- 1 Oachira Parabrahma Bharana Samithi(Reg No.Q 82/59)
- 2 Oachira Parabrahma Bharana Samithi, Represented by
K.Gopinathan, Aged 75 years, Sreerangath Veedu,
Puthuppally South Muri, Devikulangara Village,
Karthikappally Taluk. Secretary in charge of Annadana
Mandiram, Oachira.

(Defendants set exparte)

Suit filed U/s 26 Order VII Rule 1 of Civil Procedure Code.

Suit for permanent prohibitory injunction.

This suit coming on for hearing before me on 30.09.2024 and the court on the same day delivered the court passed the following.

J U D G M E N T

Suit is for permanent prohibitory injunction

2. The plaint averments can be summarised as follows:-- Plaintiff is using the plaint schedule shop room of 1st defendant since 2019 and conducting business in the above said plaint schedule building. 2nd defendant is the Secretary of the 1st defendant. Plaintiff is using the plaint schedule shop room for conducting the business by paying the rent amount in advance and time to time he was paid the renewed rent. Plaintiff is conducting the business of sale of toys and bags in the said shop room and he obtained license from the Oachira Grama Panchayath for conducting such a business and the same is renewing from time to time. Plaintiff has no other income other than revenue from the shop. Now due to the opinion differences between the administrative committee members of the 1st defendant, during the subsistence of the period of rent agreement the plaintiff was asked to

vacate the shop room by the 2nd defendant. Due to the Covid-19 pandemic even the temple worship were obstructed and he has already spend huge amount for purchasing the items. During the Covid-19 he did not get any income from the shop. But after that in pursuant to the coming of പ്രമുഖികോത്സവം plaintiff has purchased more stocks for the business. If the plaintiff is now forcefully evicted from the shop room, it will cause irreparable injury and hardship to the plaintiff. Defendant has doing such an illegal act during the tenancy of the rental agreement by accepting advance rent amount. Defendant is no right to evict the plaintiff other than due process of law. Hence suit may be allowed.

3. Though summons was served to the defendants, no written statement has been filed. Therefore, the suit was proceeded against them exparte.

4. Plaintiff was examined as PW1 and Exts.A1 to A3 and Ext.C1 were marked.

5. Heard the plaintiff and analyzed the evidence on record.

6. In this case, it is to be noted that in order to substantiate the plaint averments the 1st plaintiff adduced evidence as PW1. Plaintiff has filed this suit seeking permanent prohibitory injunction for restraining the defendants from forcibly evicting him from the plaint schedule shop room. According to the plaintiff, he is using the plaint schedule shop room for conducting the business by paying the rent. Plaintiff has produced Ext.A1 Receipt No.834 dated 14.06.2022 & Ext.A3 Receipt No.334 dated 19.06.2019 respectively issued by the Oachira Temple Administrative Committee and Ext.A2 license issued by the Oachira Grama Panchayath in the name of Madhu Kumar, plaintiff. However, on perusal of records it is seen that through Ext.A1 to A3 plaintiff has proved his right as a tenant over the plaint schedule property. There is nothing brought out before this court to discredit the evidentiary value of Exts.A1 to A3 and the same is corroborated by the oral testimony of PW1.

7. Since the plaintiff is the tenant of the plaint schedule shop room, he has every right to have conducting business in the plaint schedule property.

The un-controverted evidence of PW1 shows that his apprehension regarding the eviction from the side of the defendants seems further genuine. Hence I am of the view that plaintiff is entitled to get a relief of permanent prohibitory injunction as prayed for .

In the result, suit is decreed with costs as follows:-

Defendants and their men are permanently restrained from forcibly evicting the plaintiff from the plaint schedule property/shop room without following the due process of law.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court on this the 30th day of September, 2024).

Sd/-
Aswathy Nair,
Munsiff.

Appendix

Exhibits marked from the side of the plaintiff

A1 - 14.06.2022 - Receipt No.834

A2 - License issued in Oachira temple administrative committee.

A3 - 19.06.2019 - Receipt No.334

Exhibit marked from the side of the defendant : Nil.

Witness examined from the side of the Plaintiff

PW1 - 01.08.2024 - Madhukumar.

Witness examined for the side of the Defendant : Nil

Court Exhibit

C1 - 11.11.2022 - Mahazar.

Id/-
Munsiff.

// True Copy//

Munsiff.

Typed by : Sujith Kumar.T

Compd.by :