

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 30TH DAY OF JUNE 2017/9TH ASHADHA, 1939

OP(C).No. 2015 of 2017 (O)

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I.A.NO.890 OF 2017 IN O.S.NO.498 OF 2016 OF MUNSIFF'S COURT,  
MUVATTUPUZHA

PETITIONER/1ST PETITIONER/1ST DEFENDANT:

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DEENAMMA THOMAS,  
AGED 57 YEARS, W/O.LATE K.A.THOMAS,  
KUMBALAMCHUVATTIL HOUSE, MEKKADAMBU P.O.,  
KADATHY KARA, VELLOORKUNNAM VILLAGE,  
MUVATTUPUZHA TALUK, ERNAKULAM,  
REPRESENTED BY HER POWER OF ATTORNEY HOLDER,  
SHRI.SEBASTIAN THOMAS, AGED ABOUT 51 YEARS,  
S/O.MR.THOMAS, CHAIRMAN,  
INTERNATIONAL HUMAN RIGHTS ASSOCIATION,  
RESIDING AT PUZHAKKARA HOUSE, KADANAD P.O.,  
PALA, KOTTAYAM DISTRICT, KERALA.

BY ADV. SRI.K.RAJESH KANNAN

RESPONDENT/RESPONDENT/PLAINTIFF:

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BRIJIS JOBY,  
AGED 36, W/O.JOBY CHERIAN, VETTUKALLUMPURATH,  
MACHIPLAVU KARA,  
NOW RESIDING AT KUMBALCHUVATTIL HOUSE,  
MEKKADAMBU P.O., KADATHY KARA,  
VELLOORKUNNAM VILLAGE,  
MUVATTUPUZHA, ERNAKULAM-683124.

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON  
30-06-2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DSV/-

OP(C) .No. 2015 of 2017 (O)

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APPENDIX

PETITIONER'S EXHIBITS :

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EXHIBIT P1        TRUE COPY OF THE PLAINT IN O.S.NO.498/2016 ON  
THE FILE OF THE HON'BLE MUNSIFF'S COURT, MUVATTUPUZHA DATED  
18-10-2016.

EXHIBIT P2        TRUE COPY OF THE WRITTEN STATEMENT IN  
O.S.NO.498/2016 AND THE COUNTER CLAIM.

EXHIBIT P3        TRUE COPY OF THE WRITTEN STATEMENT TO THE  
COUNTER CLAIM FILED BY PLAINTIFF DATED NIL.

EXHIBIT P4        TRUE COPY OF THE UNREGISTERED LEASE DEED DATED  
20-10-2013.

EXHIBIT P5        TRUE COPY OF THE DEATH CERTIFICATE DATED  
28-10-2014 ISSUED IN THE NAME OF K.A.THOMAS.

EXHIBIT P6        TRUE COPY OF THE REPLY DATED 20-10-2016 ISSUED  
BY PLAINTIFF TO THE LAWYER NOTICE ISSUED BY DEFENDANT.

EXHIBIT P7        TRUE COPY OF THE I.A.NO.890/2017 IN  
O.S.NO.498/2016 DATED 09-03-2017.

EXHIBIT P8        TRUE COPY OF THE ORDER DATED 12-4-2017 IN  
I.A.NO.890/2017 IN O.S.NO.498/2016 OF THE HON'BLE MUNSIFF'S  
COURT, MUVATTUPUZHA.

RESPONDENT'S EXHIBITS :

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NIL

// True Copy //

P.A. To Judge

DSV/-

**B. KEMAL PASHA, J.**

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O.P.(C). No.2015 of 2017

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*Dated this the 30<sup>th</sup> day of June, 2017*

**J U D G M E N T**

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Heard the learned counsel for the petitioner.

2. The petitioner is the 1<sup>st</sup> defendant in O.S.No.498 of 2016. The petitioner, by relying on Exhibit-P6 reply notice issued at the instance of the plaintiff, was ready and willing to deposit an amount of ₹4,00,000/-. At the same time, the petitioner wanted to get sufficient security furnished by the plaintiff for his taking away the amount of ₹4,00,000/- and surrender possession of the building. Exhibit-P7 I.A. to that effect was filed and the court below has dismissed Exhibit-P7 through Exhibit-P8 order, in which it has been found that the plaintiff is not ready to provide sufficient security bond and that the plaintiff had urged that she was ready to receive the amount and to vacate the scheduled premises.

3. According to the petitioner, now the petitioner

is ready to give up the demand for getting any security furnished. According to the petitioner, the plaintiff can accept the said amount of ₹4,00,000/- deposited by him unconditionally and surrender vacant possession of the premises. In such case, in the present scenario, this Court is of the view that Exhibit-P8 order can be set aside and the court below can be directed to consider Exhibit-P7 afresh and pass appropriate orders in accordance with law, in the light of the changed circumstances. The court below shall pass such an order within one month from the date of receipt of a copy of this judgment.

This O.P.(C) is disposed of accordingly.

Sd/-

**(B.KEMAL PASHA, JUDGE)**

DSV/30/6/17

// True Copy //

P.A. To Judge