

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN
&
THE HONOURABLE MR. JUSTICE ASHOK MENON

FRIDAY, THE 29TH DAY OF JUNE 2018 / 8TH ASHADHA, 1940

W.P(C).No.14352 of 2018

PETITIONER(S):-

JULIE K.S., AGED 43 YEARS, D/O. LATE SUKUMARAN,
KAINIKARA HOUSE, KUMBAZHA, PATHANAMTHITTA VILLAGE,
KOZHENCHERRY TALUK, PATHANAMTHITTA DIST. PIN: 689 645.

BY ADV.SRI.V.SETHUNATH

RESPONDENT(S):-

1. THE DISTRICT POLICE CHIEF, PATHANAMTHITTA. PIN : 689 645.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
PATHANAMTHITTA, PIN : 689 645.
3. THE CIRCLE INSPECTOR OF POLICE,
PATHANAMTHITTA, PIN : 689 645.
4. THE INSPECTOR OF POLICE,
WOMEN CELL, PATHANAMTHITTA, PIN : 689 645.
5. R. SHAJIKUMAR (VENAD SHAJI),
RAMANILAYAM HOUSE, PULIMUKKU,
PRAMADOM VILLAGE, KONNI TALUK,
THENGUMKAVU B.O, PIN: 689646.

R1 TO R4 BY SENIOR GOVERNMENT PLEADER SRI.P.P.THAJUDDIN.
R5 BY ADV. SRI.ARUN.B.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-06-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1: THE TRUE COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE PATHANAMTHITTA MUNICIPALITY.**
- EXT.P2: THE TRUE COPY OF THE AGREEMENT / UNDERTAKING GIVEN BY THE 5TH RESPONDENT TO THE PETITIONER.**
- EXT.P3: THE TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT.**
- EXT.P4: TRUE COPY OF THE P.L.P.NO.52/2018 ON THE FILE OF THE DISTRICT LEGAL SERVICE AUTHORITY, PATHANAMTHITTA.**
- EXT. P5 THE ORIGINAL OF EXT.P2 AGREEMENT DATED 4.10.2017.**

RESPONDENT(S)' EXHIBITS:-

- EXHIBIT R5(a) TRUE COPY OF THE LEASE AGREEMENT DATED 26/10/2016 EXECUTED BETWEEN THE WRIT PETITIONER AND THE SUB COMMITTEE FOR SPARE PARTS, OF THE PATHANAMTHITTA DISTRICT PRIVATE BUS OPERATORS ASSOCIATION REPRESENTED BY ITS CHAIRMAN, THE 5TH RESPONDENT.**
- EXHIBIT R5(b) TRUE COPY OF THE LAWYER NOTICE DATED 7/2/2018 ISSUED AS PER THE INSTRUCTIONS OF THE WRIT PETITIONER.**
- EXHIBIT R5(c) TRUE COPY OF THE LAWYER NOTICE DATED 3/3/2018 ISSUED AS PER THE INSTRUCTIONS OF THE 5TH RESPONDENT ON BEHALF OF THE PATHANAMTHITTA DISTRICT PRIVATE BUS OPERATORS ASSOCIATION.**
- EXHIBIT R5(d) TRUE COPY OF THE COMPLAINT DATED 18/4/2018 SUBMITTED BY THE SON OF THE 5TH RESPONDENT.**
- EXHIBIT R5(e) TRUE COPY OF THE COMPLAINT DATED 25/5/2018 SUBMITTED BY THE 5TH RESPONDENT BEFORE THE 1ST RESPONDENT AND THE RECEIPT ISSUED BY THE OFFICE OF THE 1ST RESPONDENT.**

Vku/-

[true copy]

K. Vinod Chandran & Ashok Menon, JJ.

W.P (C).No.14352 of 2018-T

Dated, this the 29th day of June, 2018

JUDGMENT

Vinod Chandran, J:

The petitioner is before this Court contending that the 5th respondent is in occupation of a single room of the petitioner's building and he had also agreed to vacate the same as per Exhibit P2. However, even after the period as agreed to in Exhibit P2 expired, the 5th respondent continues in occupation. The learned Counsel submits that he is not seeking for eviction of the 5th respondent, but only is concerned with the encroachment made by the 5th respondent into other portions of the building. The 5th respondent is said to be a bus operator, who has goondas in his employment. The 5th respondent is threatening the peaceful life of the petitioner and her family members who are staying in the same building in the first floor without a male help.

2. The 5th respondent has filed a detailed counter affidavit. The 5th respondent submits that Exhibit P2 is not executed by the 5th respondent. It is also submitted that it was a specific lease agreement between the petitioner and the 5th respondent as

seen from Exhibit R5(a) dated 26.10.2016. Further, the petitioner had issued a lawyer notice at Exhibit R5(b) dated 07.02.2018 seeking vacation of the premises which has been replied to as per Exhibit R5(c). These documents have been suppressed in the writ petition. It is also brought to our notice that the notice issued at Exhibit R5(b) further fortifies the contention of the 5th respondent that Exhibit P2 is not genuine.

3. Exhibit P2 is an agreement said to have been executed on 04.10.2017. The notice issued by the petitioner through lawyer is dated 07.02.2018. There is not even a whisper about the agreement allegedly executed prior to the issuance of the notice. Further, it is seen from Exhibit P2 that there is a recital which indicates that the lease expired on 20.09.2017 whereas in the notice the period is said to be 26.09.2017. We are of the opinion that the petitioner has suppressed material facts from this Court. We also accept the contention of the 5th respondent that the attempt of the petitioner is to somehow evict the 5th respondent bypassing the civil remedies. We, hence, decline any interference in the above writ petition.

The writ petition is dismissed. No costs. The original of Exhibit P2, produced as Exhibit P5, shall be returned to the petitioner.

Sd/-
K.Vinod Chandran
Judge

Sd/-
Ashok Menon
Judge

vku/-

[true copy]