
(2011) 03 KL CK 0258
In the High Court Of Kerala
Case No : WP (C) No. 3905 of 2011 (K)

K.M. Joy

APPELLANT

Vs

The State of Kerala

RESPONDENT

Date of Decision : 08-03-2011

Acts Referred:

Citation : (2011) 03 KL CK 0258

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : V. Chitambaresh, for the Appellant; Government Pleader, for the Respondent

Judgement

Antony Dominic, J.—Petitioners in these writ petitions were allotted different spaces in and around of Malampuzha Garden. As far as the Petitioners in W.P(C) No. 4178 of 2011 are concerned, the period of allotment covered by the agreement has already expired. In as far as the Petitioner in W.P(C) No. 3905 of 2011 is concerned, the period is up to 31.3.2011. They are aggrieved by the notices issued by the 2nd Respondent requiring them to vacate the premises within three days.

2. Justification offered by the 2nd Respondent in the counter affidavit filed is that, renovation work is going on at Malampuzha Garden area and that therefore, the entire place will have to be vacated for the said purpose. Though the genuineness of this statement is not to be doubted, fact remains that, the Petitioners are running business in the space allotted. Therefore, the eviction proceedings can be done in accordance with the due process of law. Due process of law, is the one provided under the provision of Kerala Eviction of Unauthorised Occupants Act, 1968. Therefore, it is for the Respondent to initiate proceedings under the said Act. It is directed that until such proceedings are initiated and orders are issued, status quo as regards the possession of the space will be maintained.

3. Petitioners contented that they are entitled to be allotted alternative spaces. However, the stand taken by the Respondent in the affidavit is that, there is no space is available. Nothing has been placed on record to conclude that the averment in the affidavit is wrong. In such circumstances, this Court will not be justified in issuing any directions in the claim of the Petitioners.

The Writ Petition is disposed of with the aforesaid direction.