

(2010) 11 KL CK 0203
In the High Court Of Kerala
Case No : O.P. (RC) No. 672 of 2010 (O)

Sunil

APPELLANT

Vs

Asokan Pillai and Others

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2010) 11 KL CK 0203

Hon'ble Judges : Pius C. Kuriakose, J;P.S. Gopinathan, J

Bench : Division Bench

Advocate : S. Sudhish Kumar, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

Pius C. Kuriakose, J.—This original petition under Article 227 has been filed by a non party who has filed Ext.P2 claim petition in a proceeding before the Aluva Munsiff for execution of an eviction order passed in favour of the respondent landlord in RCP No. 16/2005. The order of eviction was passed on the ground under Sub-section (3) of Section 11 and the same was confirmed by the appellate authority and also by this Court in revision and further by the Supreme Court. Ext.P1 is the order of the Supreme Court which shows that the Supreme Court granted six months time to the tenant, the respondent in the RCP, to vacate the building upon furnishing an undertaking before the Supreme Court. According to the petitioner, he took the building on lease from the respondent in the RCP under the impression that the respondent in the RCP himself is the owner of the building. However, it is now conceded that the status of the respondent in the rent control petition is that of tenant and that the status of the petitioner can only be that of a sub tenant. We notice from Ext.P1 order of the Supreme Court that this is a case where the rent control petition was being fought out by the respondent in the rent control petition. In our opinion, there is absolutely no scope for a contention by the petitioner that the order of eviction

passed in the rent control petition is the result of collusion between the landlord and the respondent in the rent control petition. If that be so, the status of the petitioner in respect of the building and the E.P. can only be that of somebody under the judgment debtor.

2. Under the above circumstances, we do not find any chance of success for the petitioner even if Ext.P2 is enquired into and adjudicated in detail. As a matter of fact, we do not find any necessity for an elaborate enquiry in Ext.P2. We are, therefore, not inclined to direct disposal of Ext.P2 or to keep in abeyance the order of delivery which is said to be already issued.

The Original Petition will stand dismissed. However, if delivery has not yet been effected, the learned Munsiff will keep in abeyance proceedings for delivery for a period of one month from today so as to enable the petitioner to remove his goods from the building in question.