
(2022) 11 KL CK 0110
In the High Court Of Kerala
Case No : Original Petition (C) No. 2002 Of 2022

Sunitha	Vs	APPELLANT
Sathyabhama		RESPONDENT

Date of Decision : 09-11-2022

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2022) 11 KL CK 0110

Hon'ble Judges : C.S.Dias, J

Bench : Single Bench

Advocate : Sadchith.P.Kurup, Vinod Jabar, C.P.Anil Raj, Siva Suresh, Ajith Viswanathan

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The original petition is filed to direct the Court of the Munsiff, Chalakkudy to keep in abeyance all further proceedings in E.P.No.354/2020 in O.S.No.5/2022 by a further period of three months from 17.10.2022.

2. The facts leading to the original petition, in a nutshell, are: the petitioner had filed the suit against the respondents for cancellation of a document and injunction. The dispute between the parties was settled in mediation as per Ext.P1 memorandum of agreement pursuant to which the suit was decreed. As per the conditions in Ext.P1, the petitioner is to pay the 1st respondent an amount of Rs.14,75,000/- within five months from 19.01.2022, failing which she has to vacate the premises on 22.05.2022. The petitioner failed to comply with the conditions in Ext.P1 agreement. The respondents laid the decree to execution. An Amin has been deputed to take delivery of the property. The petitioner has a son, who is mentally retarded. The petitioner needs three more months time to vacate the premises. Even though a request was made before the court below, the same was not entertained. The petitioner does not propose

to challenge Ext.P1. Her limited relief is to grant her a breathing time to vacate the premises. Hence, the original petition.

3. Heard; Sri.Sadchith P.Kurup, the learned counsel appearing for the petitioner and Sri.Ajith Viswanathan, the learned counsel appearing for the respondents.

4. The short point is whether any indulgence has to be shown by this Court to grant the petitioner further time to vacate the premises.

5. The learned counsel appearing for the petitioner submitted that it is only because the petitioner could not find out an alternative residence, she has sought for the above prayer. The said request is not seriously opposed by the learned counsel appearing for the respondents.

6. On a consideration of the pleadings and materials on record and taking note of the fact that the petitioner is a lady and has a 13 year old mentally retarded child, I am of the view that some indulgence should be shown in favour of the petitioner.

In the result, in exercise of the supervisory powers of this Court under Article 227 of the Constitution of India, this original petition is disposed of as follows:

(i) The time period to vacate the premises stated in Ext.P1 agreement is extended till 05.01.2023, on condition that the petitioner files an undertaking before the court below within one week from today to vacate the premises within the above said date.

(ii) The court below is directed to keep further proceedings in E.P.No.354/2022 in O.S.No.5/2022 in abeyance till 05.01.2023.

(iii) In case the petitioner vacates the premises, the execution petition can be closed, if not the court below shall hastily proceed with the execution and bring it to a logical conclusion in accordance with law.