

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

RCRev..No. 120 of 2012 ()

AGAINST THE ORDER/JUDGMENT IN RCA 154/2010 of RENT CONTROL APPELLATE
AUTHORITY/DISTRICT JUDGE, KOZHIKODE
AGAINST THE ORDER/JUDGMENT IN RCP 51/2004 of RENT CONTROL COURT/PRINCIPAL
MUNSIFF'S COURT-II ,KOZHIKODE-II

REVISION PETITIONER(S)/APPELLANTS/PETITIONERS NOS.2 TO 7:

1. MUHAMMED.P,
S/O.N.ASSAN, AGED 55 YEARS,
POTTAMMAL, POST PANTHEERANKAVU, PERUMANNA AMSOM
& DESOM, KOZHIKODE TALUK.
2. ALI.P.,
S/O.N.ASSAN, AGED 53 YEARS,
POTTAMMAL, POST PANTHEERANKAVU, PERUMANNA AMSOM
& DESOM, KOZHIKODE TALUK.
3. ABDUL KAREEM.P.,
S/O.N.ASSAN, AGED 47 YEARS,
POTTAMMAL, POST PANTHEERANKAVU, PERUMANNA AMSOM
& DESOM, KOZHIKODE TALUK.
4. ABDUL NAZAR.P.,
S/O.N.ASSAN, AGED 35 YEARS,
POTTAMMAL, POST PANTHEERANKAVU, PERUMANNA AMSOM
& DESOM, KOZHIKODE TALUK.
5. FATHIMA.P.,
S/O.N.ASSAN, AGED 57 YEARS,
POTTAMMAL, POST PANTHEERANKAVU, PERUMANNA AMSOM
& DESOM, KOZHIKODE TALUK.
6. AYISHA.P.,
S/O.N.ASSAN, AGED 35 YEARS,
POTTAMMAL, POST PANTHEERANKAVU, PERUMANNA AMSOM
& DESOM, KOZHIKODE TALUK.

BY ADVS.SRI.V.T.MADHAVANUNNI
SRI.V.A.SATHEESH
SRI.J.ABHILASH

RESPONDENT(S)/APPELLANT/RESPONDENT:

THAZHETHODIYIL BALAN, S/O.VELAYUDHANU,
AGED 74 YEARS, PUTHUR DESOM, PERUMANNA VILLAGE,
POST PANTHEERANKAVU, KOZHIKODE TALUK 673 019.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
BY ADV. SRI.ARJUN SREEDHAR

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 06-04-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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R.C.Rev.No. 120 of 2012

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Dated this the 6th day of April, 2015

ORDER

ANTONY DOMINIC, J.:

Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

2. The petitioners being landlords of the building given on rent to the respondent, filed R.C.P.No.51/2004 before the Rent Control Court, Kozhikode, seeking fixation of fair rent as provided under Sec.5 of the Rent Control Act. In this petition they prayed for enhancement of the rent from Rs.90/- to Rs.630/- on the basis that the area of the building is 63 sq.ft and that the prevailing rent is Rs.10 per sq.ft. The Rent Control Court passed its final order allowing the rent at the rate of Rs.360/- from the date of its order. In R.C.A.No.154/2010, the Appellate Authority enhanced the rent to Rs.450/-, from the date the proceedings were originally brought as O.S.No.35/2001. It is aggrieved by these orders, the landlords have filed this revision.

3. According to the landlords, the Rent Control Court and

the Appellate Authority have ignored Exts.A-2 and A-3, where the rent prevailing in the neighbourhood, which is at much higher rates, were proved by the landlords.

4. Having heard the learned counsel for the parties, we are inclined to think that there is substance in what the landlords contend particularly in the light of Exts.A-2 and A-3. In such circumstances, we are inclined to modify the orders passed by the courts below.

5. Accordingly, we direct that the tenant shall pay rent in the following manner:

- (i) for the period as ordered by the Rent Control Appellate Authority and till October, 2011, when the judgment was rendered in R.C.A.No.154/2010, the tenant shall pay the rent at the rate of Rs. 450/- per month.
- (ii) for the period from October, 2011, the tenant shall pay the rent at the rate of Rs. 630/- per month.

6. In so far as the request of the landlords for periodical enhancement of the rent is concerned, we feel that such a request cannot be entertained for want of evidence and, therefore, we leave it open to the landlords to agitate the further grievances, if any, in a

fresh proceedings before the Rent Control Court.

With these modifications, this R.C.R. is disposed of.

Sd/-

ANTONY DOMINIC, JUDGE

Sd/-

ALEXANDER THOMAS, JUDGE

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P.S. to Judge