

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

RCRev.No.222 of 2012 (D)

AGAINST THE JUDGMENT IN RCA 159/2010 of RENT CONTROL APPELLATE
AUTHORITY (ADDL. DISTRICT COURT-III), KOZHIKODE DATED 03-02-2012

AGAINST THE ORDER IN RCP 87/2009 of RENT CONTROL COURT (ADDL. MUNSIF
COURT-I), KOZHIKODE DATED 25-02-2012

REVISION PETITIONER/(APPELLANT/PETITIONER):

PUTHENPURAYIL ABDULLA KOYA THANGAL, AGED 46 YEARS
S/O.KUNHISEETHI KOYA THANGAL, 'JIFRI MANZIL', 20/452
V.K.K.MENON ROAD, PANNIYANKARA AMSOM, DESOM
KALLAI.P.O., KOZHIKODE.

BY ADVS.SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON

RESPONDENT(S)/(RESPONDENT/RESPONDENT):

PUNNASSERI SAJEEVAN, AGED 43 YEARS
S/O.ACHUTHAN, ROOM NO.1/105, WEST HILL
CHUNKAM.P.O., KACHERI AMSOM, KOZHIKODE.

BY ADV. SRI.P.K.RAMKUMAR

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 02-
02-2015, ALONG WITH RCR. 232/2012, RCR. 230/2012, RCR. 231/2012, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 2nd day of February, 2015.

ORDER

Antony Dominic, J.

The petitioner-landlord has filed these revisions. Landlord filed R.C.P.Nos.84, 85, 86 & 87 of 2009 on the file of the Rent Control Court, Kozhikode seeking eviction of the tenants under Sec. 11(2)(b) and Sec. 11(3) of the Rent Control Act. The cases were jointly tried and the Rent Control Court, vide its common order dated 25.2.2010, allowed eviction under Sec. 11(2)(b), accepting the case of the landlord that the tenants had defaulted payment of rent. These orders of the Rent Control Court was challenged by the landlord in R.C.A.Nos.156, 157, 158 & 159 of 2010. The Rent Control Appellate Authority, Kozhikode heard these cases together and by its judgment dated 3.2.2012 dismissed the appeals. It is challenging these orders, the landlord has filed these revisions.

2. We heard the learned counsel for the petitioner and also the learned counsel appearing for respondents-tenants.

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3. In so far as the ground under Sec. 11(3) of the Act urged by the landlord is concerned, according to the landlord, himself being a dental doctor, he required the entire building consisting of four rooms in the occupation of the tenants, in order to start a dental clinic of his own. He pleaded that he was employed in a private dental clinic at Mukkam and since he decided to start his own, he needed vacant possession of the buildings for his bonafide need. He also contended that he had no other building in his possession for starting the clinic. Evidence adduced before the Rent Control Court shows that the landlord was examined as PW1 and his wife was examined as PW2. Although the bonafides of his decision to set up a clinic of his own in the building owned by him, is not faulted by the lower authorities, in the course of his deposition as PW1, the petitioner has in clear terms submitted that he needs 400 sq.ft. area of his building for setting up his clinic. He clarified this position further by saying that 300-400 sq.ft would suffice for his requirements. However, the admitted factual position is that the total area of the four rooms in the occupation of the tenants comes to 1025.81 sq.ft.

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4. This therefore shows that to meet his requirement of 400 sq.ft area the landlord was seeking eviction of tenants from 1025.81 sq.ft area of the building. There was no explanation in his evidence as to why he was seeking eviction of all the tenants from the area beyond 400 sq.ft, either in the cross-examination or in the re-examination. However, an attempt was made by PW2, his wife, to explain that 400 sq.ft area mentioned by the landlord was only for the clinic and that for facilities such as x-ray, waiting room and such other facilities, additional area is required. However, the Rent Control Court and the Appellate Authority declined to accept this explanation of PW2 as according to them the requirement of the dental clinic are matters which are better known to PW1 and that in the absence of any evidence forthcoming from PW1, the explanation of PW2 could not be accepted. This view taken concurrently is a reasonable one in the light of the evidence available in the case.

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4. We agree with the court below that the aforesaid evidence of landlord created a shadow of doubt over the need urged by him and therefore the conclusion of the lower authorities that the landlord failed to establish ground under Sec. 11(3) of the Rent Control Act does not call for interference.

The revisions are accordingly dismissed.

**Sd/-
ANTONY DOMINIC,
Judge.**

**Sd/-
ALEXANDER THOMAS,
Judge.**

Bkn/-

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P.A to Judge