

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

RCRev..No. 54 of 2010 ()

AGAINST THE JUDGMENT IN RCA 10/2005 of DISTRICT COURT, KOLLAM
DATED 31-10-2009

AGAINST THE ORDER IN RCP 4/2002 of RENT CONTROL (MUNSIFF) COURT, PUNALUR
DATED 31-01-2005

PETITIONER(S)/APPELLANTS/RESPONDENTS:

RAJAN S/O. KUNJUNNY, KAVITHA BHAVANAM
BHARANIKAVU ROAD, PUNALUR VILLAGE
PATHANAMTHITTA TALUK.

BY ADVS. SRI. S. SREEKUMAR
SRI. P. MARTIN JOSE
SRI. P. PRIJITH

RESPONDENT(S)/RESPONDENTS/PETITIONERS:

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1. DR. JOHN JHONSON @ ROBY S/O. LATE
MONCY JHONSON, VANMALA, PIRAVANTHUR
PATHANAPURAM TALUK.
 2. THANKAMMA JHON, W/O. LATE MONCY JHONSON
VANMALA, PIRAVAATHUR VILLAGE, .
PATHANAPURAM TALUK.

R, R BY ADV. SRI. P. B. KRISHNAN
R, R BY ADV. SRI. R. SURAJ KUMAR
R, R BY ADV. SMT. GEETHA PMENON
R, R BY ADV. SRI. N. AJITH
R, R BY ADV. SRI. P. M. NEELAKANDAN

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON
29-01-2015, ALONG WITH R.C.R. 122/10 AND CONNECTED CASES, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

R.C.R.Nos.54, 122 & 123 of 2010, 333 of 2011
and 274 of 2012

Dated this the 29th day of January, 2015

O R D E R

Antony Dominic, J.

- 1.The issues arising in these revisions being connected, these cases were heard together and are disposed of by this common order.

- 2.RCR.Nos.54/10 and 123/10 arise from the proceedings in RCP.4/02 on the files of the Rent Control Court, Punalur. That RCP was filed by the petitioner in RCR.123/10 and his deceased mother, seeking eviction of the tenant under sections 11(3), 11(4)(ii), 11(4)(iii) and 11(4)(iv) of the Kerala Buildings (Lease and Rent Control) Act, hereinafter, the 'Act', for short. The Rent Control Court ordered eviction under sections 11(3) and 11(4)(iii). This order was challenged by the tenant in RCA.10/05 and the landlord in RCA.23/05 before the Rent Control Appellate Authority, Kollam. The Appellate Authority, by its common judgment dated 31.10.2009, dismissed both the appeals. This order is challenged

by the tenant in RCR.54/10 and the landlord, in RCR.123/10.

3.RCR.122/10 arises from the proceedings in RCP.11/00 on the file of the Rent Control Court, Kottarakkara. This petition was initially filed before the Rent Control Court, Punalur as RCP.1/98 and was later transferred to the Kottarakkara court. RCP.11/00 was filed by the petitioner herein and his deceased mother, seeking eviction of the respondent tenant under sections 11(3), 11(4)(i), 11(4)(ii), 11(4)(iii) and 11(4)(iv) of the Act. The Rent Control Court dismissed the petition and that order was challenged by the landlord in RCA.1/04 before the Rent Control Appellate Authority, Kollam. The Appellate Authority, by its judgment dated 31.10.2009, dismissed the appeal. It is this proceedings which is under challenge in RCR.122/10.

4.RCR.333/11 arises from the proceedings in RCP.5/00 on the file of the Rent Control Court, Kottarakkara. The said RCP was initially filed by the petitioner and his deceased mother before the Rent Control

Court, Punalur as RCP.1/99 and was later transferred to the Kottarakkara court. In this case, eviction of the respondent tenant was sought for under sections 11(2)(b), 11(3), 11(4)(ii) and 11(4)(iv) of the Act. The Rent Control Court dismissed the RCP and that order was challenged by the landlord before the Rent Control Appellate Authority in RCA.38/03. That RCA was considered along with RCA.1/04 mentioned above and was dismissed by judgment dated 31.10.2009. It is aggrieved by this proceedings, the petitioner filed RCR.333/11.

5.RCR.274/12 arises from the proceedings in RCP.2/05 on the files of the Rent Control Court, Punalur. That petition was filed by the petitioner herein seeking eviction of the deceased tenant whose legal representatives are now on the party array, under sections 11(3) and 11(4)(iv) of the Act. The Rent Control Court allowed eviction and that order was challenged by the deceased tenant in RCA.7/08 on the files of the Rent Control Appellate Authority, Kollam. The Appellate Authority, by its judgment dated 17.2.2012, set aside the order passed by the

Rent Control Court and allowed the appeal and it is this proceedings, which is challenged by the landlord in RCR.274/12.

6. We heard learned senior counsel for the petitioners and the learned counsel appearing for the respondents tenants. From the submissions made by both sides, it is revealed that the admitted factual position is that the landlord sought for eviction of the tenants from different buildings within the same property situated in Punalur town. The main ground of bonafide need commonly urged by him was that he wanted to return from Bangalore where he is employed as a Clinical Psychologist and to look after his deceased mother who was then ailing. According to him, on his return to his native place, he wanted to start a Rehabilitation and De-addiction Centre. However, from the facts we have noticed, it is seen that the Rent Control Court and the Appellate Authority has considered the bonafide need urged by the landlord and has come to contradictory findings in different proceedings and this, in our view, has happened because the cases were instituted at

different points of time and were not jointly tried. Similar is the case with the other grounds urged.

7. In the aforesaid circumstances, we feel that this is a fit case to be remitted back to the Rent Control Court so that the cases could be jointly tried and a fresh decision can be rendered in the matter. Accordingly, we set aside the orders passed by the Rent Control Court and the Rent Control Appellate Authority and remand the cases to the Rent Control Court, Punalur for fresh consideration.

8. The Rent Control court will permit the parties to amend their pleadings and adduce fresh evidence. On that basis, the Rent Control Court shall jointly try the 4 rent control petitions and render a common order dealing with respective contentions of the parties involved in these cases.

9. In order to shorten the delay, we direct the parties to appear before the Rent Control Court, Punalur on 4.3.2015. On such appearance, the Rent Control Court shall expedite the proceedings and shall decide the

cases afresh, untrammelled by the earlier findings of the court or the Appellate Authority.

Revisions ordered accordingly.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
ALEXANDER THOMAS, Judge.

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