

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

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

RCRev..No. 179 of 2013 ()

**(RCA 74/2011 of II ADDL.DISTRICT COURT,ERNAKULAM DATED 19-03-2013
(RCP 21/2010 of RENT CONTROL COURT KOCHI)**

REVISION PETITIONER(S)/(APPELLANT/RESPONDENT)::

**SAJITH BALIGA AGED 59 YEARS
S/O.R.A.BALIGA, SHOP NO.1/360, PRINCESS STREET
FORT COCHIN, KOCHI-682001.**

BY ADV. SRI.DINESH R.SHENOY

RESPONDENT(S)/(RESPONDENTS/PETITIONERS):

- 1. PAUL GEORGE, AGED 42 YEARS
S/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT COCHIN, KOCHI-682001.**
- 2. ANEE, AGED 52 YEARS
D/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT COCHIN
KOCHI-682001. REP.BY POWER OF ATTORNEY HOLDER PAUL GEORGE
S/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT KOCHIN, KOCHI-682001.**
- 3. LEELA PAUL, AGED 50 YEARS
D/O.GEORGE, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT COCHIN, KOCHI-682001.**
- 4. JACK, AGED 49 YEARS
S/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT COCHIN
KOCHI-682001. REP.BY POWER OF ATTORNEY HOLDER PAUL GEORGE
S/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT KOCHIN, KOCHI-682001.**
- 5. LENNET, AGED 46 YEARS
D/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT COCHIN, KOCHI-682001.
REP.BY POWER OF ATTORNEY HOLDER PAUL GEORGE
S/O.GEORGE CHACKO, H.NO.1/358, CHEEYEDATH HOUSE
PRINCESS STREET, FORT COCHIN, KOCHI-682001.**

R1-R5 BY ADV. SRI.M.A.ASIF

**THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 06-01-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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R.C.Rev. No.179 of 2013

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Dated this the 6th day of January, 2015

O R D E R

ANTONY DOMINIC, J.:

This Revision Petition is filed by the tenant, who was the respondent in R.C.P.No.21/2010 on the file of the Rent Controller, Kochi, whose order was confirmed by the appellate authority by dismissing R.C.A.No.74/2011. Briefly stated, the facts of the case are that the petitioner was the tenant of the petition schedule building, which was originally owned by the father of the respondents. The monthly rent was Rs.35/-.

2. While so that R.C.P.No. 21/2010 was filed by the respondents under Sec.18 of the Kerala Buildings (Lease and Rent Control) Act, 1965 for fixing the fair rent. By order dated 23.5.2011, the Additional Rent Controller, Kochi, found that the area of the building was 253 sq.ft. and that they were entitled to fixation of rent at Rs. 20/- per sq.ft. On that basis, it was found that the respondents are entitled to Rs.5,060/- per month, which was rounded up to Rs.5,000/-.

3. This order of the Rent Controller was challenged by the

revision petitioner in R.C.A.No. 74/2011 before the Rent Control Appellate Authority. The appellate authority by its order dated 19th of March, 2013, confirmed the order of the Rent Controller in all respects, except that the area of the room was found to be only 230 sq.ft and the rate of rent was reduced to Rs. 18/- per sq.ft. Accordingly, the appeal was disposed of fixing the revised rent at Rs.4,000/- per month with effect from 12.4.2007. It is aggrieved by these orders, that the tenant has filed this Revision Petition.

4. We heard the counsel for the parties and have also considered the submissions made.

5. As rightly held by the lower authorities, in the light of the principles laid down by this Court in *Edger Ferus v. Abraham Ittycheria* [2004 (1) KLT 767], inflation and resultant reduction in the purchasing power of money, variations in the cost of living index, demand for accommodation, availability of buildings in the locality, cost of construction, local importance, rent prevailing in the locality, land value, annual rental value, access to places of public importance, etc. are relevant considerations to be taken into account while considering a petition under Sec.18 of the Act.

6. Reading of the order passed by the Rent Controller shows that the building in question is situated Princess Street at

Fort Cochin, which is commercially a very important locality and is surrounded by several historic monuments and other institutions and the area in question is within the declared heritage zone and is also a tourist destination attracting foreign tourists. It has also come out in evidence that several buildings in the locality are converted into home stays and rented out to foreigners and that the business activities are also targeted to cater to the needs of the foreign tourists. Details of hotels and other home stays are mentioned in the order passed by the Rent Controller.

7. The revision petitioner himself had admitted that he is engaged in the sale of cigar and tobacco and his shop is worth mentioned in international travel guides. According to him, he is focusing the foreigners who are visiting Fort Cochin. The importance of the locality and the commercial potential are also noticed by the Advocate Commissioner who was examined as CW-1. It was taking into account these facts, that the Rent Controller fixed Rs. 20/- per sq.ft contrary to Rs.50/- per sq.ft. claimed by the landlords. These considerations, which were taken note of the Rent Controller cannot, at any rate, be said to be irrelevant or illegal. However, the appellate authority has reduced both the area of the building and also the rent fixed by the Rent Controller and we see

no reason to interfere with these proceedings. However, according to us, despite the commercial importance of the area in question, taking note of the business activities that was carried on by the petitioner herein, fixation of rent at Rs.15/- sq.ft. would have been reasonable. In the circumstances, Rs.18/- per sq.ft. fixed by the appellate authority is reduced to Rs. 15/- per sq.ft. If that be so, for 230 sq.ft area, the rent payable would be Rs. 3,450/- and this is rounded up to Rs.3,500/- (Rupees three thousand and five hundred only) per month. Rent at this rate will be payable from 12.4.2007.

8. We are informed that during the pendency of these proceedings, the appellant has paid rent at Rs. 2,500/- per month from 2010. If that be so, the said payment made by the petitioner/tenant would be given credit while quantifying his liability under this order.

This Revision is disposed of subject to the above modification.

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Sd/-
ANTONY DOMINIC, JUDGE
Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge

