

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

RCRev..No. 302 of 2013 (A)

AGAINST THE JUDGMENT IN RCA 23/2010 of ADDL.DISTRICT COURT,KOTTAYAM
(ADDL. RENT CONTROL APPELLATE AUTHORITY) DATED 26/03/2013

AGAINST THE ORDER IN RCP 13/2009 of RENT CONTROL COURT,
CHANGANACHERRY DATED 26/7/2010

PETITIONER/RESPONDENT/PETITIONER:

P.P.MOHAMMED ISMAIL, AGED 60 YEARS
S/O. HAJEE PAREED RAWTHER, POWATH HOUSE, MANDIRAM
VAIKOM MURI, RANNI VILLAGE, PATHANAMTHITTA.

BY ADVS. SRI.K.GOPALAKRISHNA KURUP (SR.)
SRI.S.MANU
SRI.K.SURESH

RESPONDENT/COUNTER PETITIONER/APPELLANT:

JOSEPH JOB,
S/O. VARKEY JOB, KARIMATTATHU HOUSE, RUBY NAGAR.P.O.
VAZHAPPALLY EAST VILLAGE, CHANGANACHERRY-686103.

BY ADV. SRI.JOMY GEORGE
BY ADV. SRI.SEBASTIAN THOMAS

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON
30-09-2015, A/W R.C.R. NO.334/13, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.N. RAVINDRAN

&

BABU MATHEW P. JOSEPH, JJ.

=====

R.C.R.Nos.302 & 334 of 2013

=====

Dated this the 30th day of September, 2015

O R D E R

P.N. Ravindran,J.

These revision petitions arise from the order passed by the Rent Control Court, Changanacherry, on 26-07-2010 in R.C.P.No.13 of 2009 and the judgment delivered by the Additional Rent Control Appellate Authority, Kottayam, on 26-03-2013 in R.C.A.No.23 of 2010. The petitioner in R.C.R.No.302 of 2013 is the landlord and the petitioner in R.C.R.No.334 of 2013 is the tenant in the aforesaid proceedings.

2. The landlord prayed for an order of eviction under sections 11 (2)(b), 11(3) and 11(4)(v) of the Kerala Buildings (Lease and Rent Control) Act, 1965, hereinafter referred to as the "Act", for short. The Rent Control Court ordered eviction under sections 11(2)(b) and 11(4) (v) of the Act. The prayer for an order of eviction under section 11(3) of the Act was declined. The landlord did not challenge that portion of the order. However, in the appeal filed by the tenant challenging the order of eviction, he challenged the finding under section 11(3) of the

Act. The Rent Control Appellate Authority considered the rival contentions and upheld the order of eviction passed under section 11(2)(b) of the Act. The order of eviction passed under section 11(4)(v) of the Act was set aside. The dismissal of the prayer for eviction under section 11(3) was upheld. The landlord and tenant having aggrieved by the judgment of the appellate authority, filed these revision petitions.

3. The landlord and the tenant have now settled their disputes and differences and have jointly filed I.A.No.2519 of 2015 in R.C.R.No.302 of 2013 and I.A.No.2520 of 2015 in R.C.R.No.334 of 2013. They have in I.A.No.2519 of 2015 in R.C.R.No.302 of 2013 agreed that an order of eviction may be passed under sections 11(2)(b), 11(3) and 11(4)(v) of the Act on the terms and conditions stipulated therein. They have in I.A.No.2520 of 2015 in R.C.R.No.334 of 2013 prayed that in view of the settlement arrived at in R.C.R.No.302 of 2013, R.C.R.No.334 of 2013 may be dismissed as not pressed.

4. We have gone through the terms and conditions of the settlement which are set out in detail in I.A.No.2519 of 2015 in R.C.R.No.302 of 2013 jointly filed by the tenant and the landlord and verified by their counsel. The terms and stipulations therein disclose

that the tenant who is the respondent in R.C.R.No.302 of 2013 has agreed to surrender vacant possession of the petition schedule premises to the landlord on or before 31-12-2015. The parties have also agreed that out of a sum of ₹5,00,000/- paid as security by the tenant to the landlord, the landlord shall refund a sum of ₹2,00,000/- and retain the balance sum of ₹3,00,000/- and adjust it against the arrears of rent payable due and payable till 31-12-2015 and the expenses for repairing the building. The parties have also agreed that the tenant will be entitled to remove the furniture and electrical fittings and fixtures (air conditioner and 20 fans) and the water tank from the building before surrendering vacant possession. The parties have further agreed that the landlord will have no claim for any amount towards arrears of rent in respect of the petition schedule building and the tenant will not have any claim for any amount in excess of the sum of ₹2,00,000/-. The parties have also agreed that in the event of failure on the part of the tenant to surrender vacant possession on or before 31-12-2015, it will be open to the landlord to execute the order of eviction passed by the Rent Control Court in R.C.P.No.13 of 2009 after depositing the sum of ₹2,00,000/- for payment to the tenant and also realise damages for use and occupation of the building for the period after 31-12-2015.

5. After hearing learned counsel appearing for the parties and after going through the joint petition filed by the tenant and the landlord, we are satisfied that the terms of the settlement set out in I.A.No.2519 of 2015 in R.C.R.No.302 of 2013 can be accepted and an order of eviction can be passed. Consequently, there will be an order of eviction under section 11(2)(b), 11(3) and under section 11(4)(v) of the Act in R.C.P.No.13 of 2009 on the file of the Rent Control Court, Changanacherry. R.C.R.No.334 of 2013 shall stand dismissed as not pressed. A copy of I.A.No.2519 of 2015 in R.C.R.No.302 of 2013 and a copy of I.A.No.2520 of 2015 in R.C.R.No.334 of 2013 shall be appended to this judgment and certified copies thereof shall also be issued along with the certified copy of this order.

Sd/-
P.N. RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns

//True Copy//

P.A. To Judge

