

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

RCRev.No. 362 of 2013 ()

AGAINST THE ORDER/JUDGMENT IN RCA 6/2011 of RENT CONTROL APPELLATE
AUTHORITY (ADDL. DISTRICT COURT), TIRUR DATED 29.7.2013

AGAINST THE ORDER/JUDGMENT IN RCP 22/2004 of RENT CONTROL COURT
(MUNSIF-MAGISTRATE COURT), PONNANI DATED 21.2.2011

REVISION PETITIONER(S)/APPELLANT/TENANT:

PANAMUKKIL SREENIVASAN, 50 YEARS,
S/O.VASU, CALICUT BANANA CHIPS
NEAR VIJAYAMATHA CONVENT, PONNANI.

BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA
SMT.D.S.THUSHARA

RESPONDENT(S)/RESPONDENT/LANDLORDS:

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1. THAYYALA VALAPPIL PUTHEN PEEDIKAKKAL SHAHARBANU
58 YEARS, W/O.MUHAMMED ISMAIL
(REPRESENTED BY POWER OF ATTORNEY HOLDER
KARUPPAM VEETIL ALI SABIR, 36 YEARS,
S/O.ABDU, PONNANI NAGARAM AMSOM
VELLIRI DESOM IN PONNANI TALUK 679 583)
 2. KOLAKKAT MUHAMMED SHABIR, 44 YEARS,
S/O.LATE MUHAMMED ISMAYIL, PONNANI NAGARAM AMSOM
VELLIRI DESOM, PONNANI TALUK 679 583.
 3. KOLAKKAT MUHAMMED SHAMEEM, 42 YEARS,
S/O.LATE MUHAMMED ISMAYIL PONNANI NAGARAM AMSOM
VELLIRI DESOM, PONNANI TALUK 679 583.

R1 -R 3 BY ADV. SRI.T.I.ABDUL SALAM

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON
23-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

R.C.R.No.362 of 2013

Dated this the 23rd day of March, 2015

O R D E R

Antony Dominic, J.

1. Heard the counsel for the petitioner and the learned counsel appearing for the respondents.
2. First respondent and her husband late Muhammed Ismail filed RCP.22/04 on the file of the Rent Control court, Ponnani for an order under section 5 of the Kerala Buildings (Lease & Rent Control) Act, 1965 in respect of a premises which was let out to the petitioner herein. The premises in question was entrusted to the petitioner herein on 10.11.1991 and the rent agreed was ₹250/- per month. In RCP.22/04, the landlords sought fixation of rent at ₹3,000/- per month. During the pendency of the RCP, the husband of the first respondent expired and thereupon, the other Legal Representatives of the deceased got themselves impleaded as additional petitioners in the RCP. The Rent Control Court, by its order dated 21.2.2011, disposed of the petition, directing the

tenant to pay ₹3,000/- per month as rent from the date of institution of the petition. The tenant challenged the order of the Rent control Court in RCA.6/11 filed before the Rent Control Appellant Authority, Tirur. The Appellate Authority, by its judgment dated 29.7.2013, disposed of the appeal fixing the fair rent at ₹2,500/- per month from the date of institution of the petition. It is challenging these orders, the tenant has filed this revision.

3. Having heard the counsel for the tenant and the counsel for the landlords, we find that one of the materials relied on by the Rent Control Court and the Appellate Authority is the Commission report submitted by the Advocate Commissioner. This report shows that nearby shoprooms viz., M/s.Brass Land and M/s.K.V.Stores are fetching monthly rent of ₹1350/- and ₹1500/- respectively. However, the Rent Control court allowed the claim of the landlords as prayed for and fixed the fair rent at ₹3000/- on the ground that the report was submitted in 2005 and that

considering the inflation, rise in prices and the resultant reduction in the purchasing power of money, landlords were entitled to revision as prayed for.

4. Though the aforesaid reasoning adopted by the Rent Control Court, as confirmed by the Appellate Authority, cannot per se be illegal, having regard to the fact that the claim of the landlords is fixation of rent from the date of institution of the petition, which was in 2004, according to us, the Rent Control Court should have fixed the fair rent adopting the amount of rent as paid to the neighbouring shoprooms as indicated in the commission report also. If so done, a reasonable fair rent would have been ₹2,000/- for the premises in question from the date of institution of the petition till the date of the order and ₹2,500/- for the period thereafter.

5. On the above basis, we modify the order passed by the Rent Control Court as confirmed by the Appellate Authority and direct the tenant to pay rent at the

rate of ₹2000/- per month from the date of institution of the petition till 31.1.2011 and at the rate of ₹2,500/- per month for the period thereafter. With this modification, the revision is disposed of.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
ALEXANDER THOMAS, Judge.

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PS to Judge