

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

OP (RC).No. 5 of 2015 (O)

**(RCA 10/2012 of ADDL. RENT CONTROL APPELLATE COURT & ADDITIONAL
DISTRICT COURT, KOTTAYAM)**

(RCP 4/2011 of ADDL.MUNSIF & RENT CONTROL COURT, KOTTAYAM)

PETITIONER(S):

**ANNIE JOHN, AGED 61 YEARS
W/O.M.A.JOHN
MANAGING PARTNER OF POLY DENTAL SPECIALISTS CENTRE
PULICKENS' COMPLEX, NAGAMPADOM, KOTTAYAM
RESIDING AT MUNDANIKKUNNATHIL, KAINADY LANE,
K.K.ROAD, KOTTAYAM DT**

**BY ADVS.SRI.THAMPAN THOMAS
SRI.B.V.JOY SANKER
SRI.SHAFFIE THOMAS
SMT.JANCY ALEX**

RESPONDENT(S):

**M/S. MEDICARE HOSPITALS PVT. LTD.,
REGISTERED OFFICE AT MISS EAST ROAD, BAKER COMPOUND
PULICKEN'S COMPLEX, KOTTAYAM - 686 001.**

**THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 14-01-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (RC).No. 5 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXBT P1- TRUE COPY OF ORDER IN RCP 4 OF 2011 OF THE RENT CONTROL COURT, KOTTAYAM

EXBT P2- TRUE COPY OF THE APPEAL R C A NO.10 OF 2012 FILED BEFORE THE RENT CONTROL APPELLATE AUTHORITY, KOTTAYAM

EXBT P3- TRUE COPY OF ORDER PASSED IN THE R C A NO.10 OF 2012 BY THE RENT CONTROL APPELLATE AUTHORITY, KOTTAYAM

EXBT P4- TRUE COPY OF THE RENT CONTROL PETITION RCP 59 OF 2013 BEFORE THE RENT CONTROL COURT, KOTTAYAM

EXBT P5- TRUE COPY OF THE CHALLAN SHOWING PAYMENTS OF RENT FOR THE MONTH OF SEPTEMBER 2014 TO NOVEMBER 2014

EXBT P6-TRUE COPY OF THE CHALLANS SHOWING PAYMENTS OF RENT FOR THE MONTH OF DECEMBER 2014

EXBT P7- TRUE COPY OF THE AFFIDAVIT FILED BY THE RESPONDENT BEFORE THE RENT CONTROL COURT, KOTTAYAM

RESPONDENT(S)' EXHIBITS

NIL.

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///True copy///

P.S. to Judge

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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O.P.(R.C) No.5 of 2015

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Dated this the 14th day of January, 2015

J U D G M E N T

ANTONY DOMINIC, J.:

The petitioner is the tenant of a portion of a building by name 'Pulikkans' Complex', Nagambadam, Kottayam. Earlier the then landlord of the building filed R.C.O.P.No.4/2011 seeking eviction of the tenant under Secs. 11(2) and 11(3) of the Rent Control Act. In the R.C.O.P. the tenant contended that the monthly rent including service charge payable was Rs.15,100/-. Though the petitioner contested the rate of rent payable, relying on Exts.A-1, A5, A-7, B-6 and B-8, the Rent Control Court held that the monthly rent payable was Rs. 15,100/-. Finding that the rent was in arrears, the Rent Control Court passed Ext.P-1 order allowing eviction under Sec.11(2)(b).

2. The petitioner filed R.C.A.No.10/2012 before the Rent Control Appellate Authority, Kottayam. In that appeal, she obtained Ext.P3 stay order, staying execution of the order passed by the Rent

Control Court. It is stated that the appeal is posted to 24.2.2015 for hearing.

3. It appears that in the meanwhile, the entire building including the leased out portion was transferred to the respondent herein. Pointing out that they purchased the building in question on 29.3.2012 and contending that the rent payable to them including service charges was Rs. 19,303/- and that the same is in arrears, the respondent issued notice dated 29.3.2012 calling upon the petitioner to vacate the premises. That demand was not complied with and thereupon they filed R.C.P.No. 59/2013 before the Rent Control Court, Kottayam, seeking eviction under Sec.11(2) (b) of the Act.

4. It is thereupon that this original petition has been filed by the tenant. According to the tenant, in the appeal filed by her, the rate of rent payable is in dispute and that pending resolution of that dispute, if R.C.P.No.59/2013 is allowed to be proceeded with, there is a possibility of conflicting orders and that therefore the Rent Control Court should be directed to keep further proceedings in R.C.P.No.59/2013 in abeyance.

5. Having heard the learned counsel for the petitioner, we

do not find any substance in the said plea made by the tenant. R.C.P.No.59/2013, though filed in respect of the very same premises, which was the subject matter of R.C.P.No.4/2011, is filed by yet another landlord and the arrears mentioned is also different from the arrears which was the subject matter of the previous proceedings. The rate of rent including service charges that is claimed by respondent is also different from what was claimed by the previous landlord. In such circumstances, we do not think that an adjudication of the dispute in R.C.P.No.59/2013 could be of any prejudice to the tenant, who has filed R.C.A.No.10/2012. We therefore see no reason to accede to the prayer of the petitioner for stay of the proceedings in R.C.P.No.59/2013 on the file of the Rent Control Court, Kottayam, pending disposal of R.C.A.No.10/2012 on the file of the Rent Control Appellate Authority, Kottayam.

The original petition fails and dismissed.

Sd/-
ANTONY DOMINIC, JUDGE

Sd/-
ALEXANDER THOMAS, JUDGE

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///True copy///

P.S. to Judge

