

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

OP (RC).No. 6 of 2015 (O)

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(I.A.NO.3533/2014 IN RCA 20/2014 of
RENT CONTROL APPELLATE AUTHORITY, THRISSUR)**

PETITIONER(S):

**MATHEW K.S. AGED 44 YEARS
S/O.LATE SAMUEL,
KENNATHINGAL HOUSE, CHEMBUKKAVU VILLAGE,
THRISSUR TALUK, DISTRICT.**

**BY ADVS.SRI.K.RAMACHANDRAN
SRI.M.R.NANDAKUMAR**

RESPONDENT(S):

**GEORGE THOMAS, POOKAZHUKKAL HOUSE,
BENNET ROAD, CHEMBUKAVU P.O.,
THRISSUR TALUK, DISTRICT.**

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

Ext.P1. COPY OF THE ORDER IN I.A.No. 3533/2014 IN R.C.A.No. 20/14 DATED 13.10.2014 BEFORE RENT CONTROL APPELLATE AUTHORITY, THRISSUR.

P2. COPY OF THE I.A.NO.3533/2014 IN R.C.A.No. 20/2014 BEFORE RENT CONTROL APPELLATE AUTHORITY, THRISSUR.

P3. COPY OF THE COUNTER IN I.A.NO.3533/2014 IN R.C.A.No. 20/2014 BEFORE THE RENT CONTROL APPELLATE AUTHORITY, THRISSUR.

RESPONDENT(S)' EXHIBITS:

NIL.

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P.S. to Judge

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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O.P.(R.C) No.6 of 2015

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Dated this the 15th day of January, 2015

J U D G M E N T

ANTONY DOMINIC, J.:

This original petition is filed by the tenant/appellant in R.C.A.No. 20/2014 on the file of the Rent Control Appellate Authority, Thrissur. He filed an interlocutory application for issue of an Advocate Commission for ascertaining certain developments, which were subsequent to the institution of the Rent Control Petition filed by the respondent-landlord under Sec.11(3) and which was allowed by the Rent Control Court. By the impugned order, the appellate authority dismissed the application. It is this order which is under challenge before us.

2. We heard the learned counsel for the petitioner and considered the submissions made.

3. Two reasons are stated in the order. One is that in view of the judgment of this Court in Alavi v. Jameela reported in 2013 (4) KLT S.N. 80 (C.No.74), developments subsequent to the institution of the petition are not relevant. The second reason stated is that the factual contentions now urged by the tenant are matters

which are capable of being proved by other evidence. Having gone through the order passed by the appellate authority and also going through the judgment of this Court in Alavi's case supra, we agree with the principle laid down by the Division Bench in Alavi's case supra. If that be so, the first reason stated by the appellate authority cannot be impugned. The factual matters sought to be ascertained are those which subsequent to the filing of the Rent Control Petition, viz., that the landlord has in his possession other rooms and that he has also let out certain other rooms. These factual aspects, we agree with the Rent Control Appellate Authority, are capable of being established by other evidence. If that be so, there is no necessity to order an Advocate Commission as sought by the petitioner. We do not find any perversity in the order passed by the appellate authority for interference. Accordingly, the original petition is dismissed.

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

P.S. to Judge

