

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

OP (RC).No. 21 of 2015 (O)

**(EP NO.161/14 IN RCP NO.11/14 BEFORE THE MUNSIFF MAGISTRATE COURT (RENT
CONTROL COURT) PONNANI)**

PETITIONER(S)/RESPONDENT:

**V.V.VISWANATHAN AGED 51 YEARS
S/O. VELLAN VALAPPIL PANGAN, EDAPPAL AMSOM
PONNAZHICKARA DESOM, PONNANI-679576,
MALAPPURAM DT.**

**BY ADVS.SRI.K.J.SAJI ISAAC
DR.ELIZABETH VARKEY**

RESPONDENT(S)/PETITIONER:

**MADATHIL ALI, AGED 61 YEARS
S/O. MADATHIL YUSUF, EDAPPAL AMSOM, THALAMUNDA DESOM
PONNANI TALUK, MALAPPURAM DT.**

**R1 BY ADV. SRI.C.KHALID
R1 BY ADV. SRI.N.A.JOSEPH
R1 BY ADV. SRI.K.P.MOHAMED SHAFI
R1 BY ADV. SMT.K.S.HASEENA
R1 BY ADV. SRI.K.REEHA KHADER
R1 BY ADV. SRI.PHIJO PRADEESH PHILIP
R1 BY ADV. SMT.K.K.NESNA**

**THIS OP (RENT CONTROL) HAVING BEEN FINALLY HEARD ON 18-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (RC).No. 21 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. CERTIFIED COPY OF THE PETITION AND THE ORDER IN EP NO.161 OF 2014.

EXT.P2. TRUE COPY OF E.A. NO. 24 OF 2015 IN E.P. NO. 161 OF 2014 FILED BY THE PETITIONER HEREIN.

EXT.P3. TRUE COPY OF THE E.A. NO. 27 OF 2015 IN E.P. NO. 161 OF 2014 FILED BY THE PETITIONER HEREIN.

EXT.P4. TRUE COPY OF RECEIPT TOWARDS DEPOSIT OF ARREARS OF RENT.

RESPONDENT(S)' EXHIBITS NIL

//True Copy//

PA TO JUDGE

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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OP (RC) No. 21 of 2015
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Dated this the 18th day of March, 2015

J U D G M E N T

Antony Dominic, J.

Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.

2. Petitioner is the respondent in RCP No.11/14 on the file of the Rent Control Court, Ponnani. The said petition is filed under Section 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act. Pleadings show that the landlord filed a petition under Section 12 of the Act and the Rent Control Court passed an order directing the petitioner to deposit the admitted arrears of rent within four weeks from 1/10/14. This order was not complied with. Therefore, the landlord filed EP No.161/14 before the trial court, a copy of which is Ext.P1. Meanwhile, the tenant filed RCA No.3/15 along with an application to condone delay of 41 days. The appeal and the petition are pending consideration of the Rent Control Appellate Authority, Manjeri. After the appeal was filed, EA No.24/15 was filed before the execution court for stay of further proceedings in the EP pending disposal of the RCA. It is also stated that he has

deposited the amount due from him under the order passed by the Rent Control Court and Ext.P4 receipt is produced. Despite all this, he is threatened with eviction. Therefore, this OP is filed.

3. Having considered the submissions made by both sides, we are inclined to think that since the petition filed by the petitioner in RCA No.3/15 for condonation of delay of 41 days is pending consideration of the Rent Control Appellate Authority, Manjeri, the grievance of the petitioner for the present would be satisfied if the execution proceedings are ordered to be kept in abeyance until orders are passed in the petition for condonation of delay. However, this can only be subject to the condition that the petitioner pays the rent due from him for the period subsequent to the order under Section 12, which has not been paid by him.

In that view of the matter, we dispose of this OP directing that further proceedings in EP No.161/14 in RCP No.11/14 on the file of the Munsiff Court, Ponnani will stand stayed till orders are passed by the Rent Control Appellate Court, Manjeri on the application made by the petitioner for condonation of 41 days delay in filing RCA No.3/15. However, this shall be subject to the

condition that the rent for the period subsequent to the order under Section 12 of the Act passed by the Rent Control Court shall be paid by the petitioner within two weeks from today and he shall also continue to pay the rent until the termination of the proceedings.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge