

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

OP (RC).No.26 of 2015 (O)

AGAINST THE ORDER DTD. 27.1.2015 IN I.A.NO.176/2015 IN
R.C.A.NO.93/2014 OF THE RENT CONTROL APPELLATE AUTHORITY
(III ADDL. DISTRICT COURT), THRISSUR

(R.C.P.NO.69/2013 OF RENT CONTROL COURT, THRISSUR.)

PETITIONER:

S.R.KRISHNAKUMAR, AGED 28 YEARS,
S/O.RAJAN, SAVEL VALAPPIL HOUSE,
KUNNATH LANE, THIRUVAMBADY, THRISSUR VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT -1

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. ABRAHAM I.THOLATH, S/O.T.A.ITTIMANI (LATE),
THOLOTH HOUSE, 13TH STREET, HOUSE NO.147,
MUSEUM CROSS LANE, CHEMBUKAVU,
THRISSUR VILLAGE, THRISSUR TALUK,
THRISSUR DISTRICT - 680 020
REP. BY POWER OF ATTORNEY HOLDER M.I.MOLLY,
W/O T.A.ITTIMANI (LATE), THOLOTH HOUSE,
13TH STREET, HOUSE NO.147, MUSEUM CROSS LANE,
CHEMBUKAVU, THRISSUR VILLAGE, THRISSUR TALUK,
THRISSUR DISTRICT - 680 020
2. VASANTHA RAJAN, W/O. RAJAN, SAVEL VALAPPIL HOUSE,
KUNNATH LANE, THIRUVAMBADY, THRISSUR VILLAGE,
THRISSUR TALUK, THRISSUR DISTRICT - 680001

R1 BY ADV.SRI.P.V.CHANDRAMOHAN

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 19-
02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF RCP.69/2013 DTD. 12.4.2013 OF THE RENT CONTROL COURT, THRISSUR.

EXT.P2: I.A.NO.16069/2013 IN EXT.P1 FILED BY LANDLORD DTD. 1.11.2013 OF THE RENT CONTROL COURT, THRISSUR.

EXT.P3: ORDER PASSED IN I.A.NO.16069/2013 IN RCP.69/2013 DTD. 27.1.2014 OF RENT CONTROL COURT, THRISSUR.

EXT.P4: ORDER IN RCP.69/2013 DTD. 16.7.2014 OF RENT CONTROL COURT, THRISSUR.

EXT.P5: ORDER IN I.A.NO.4408/2014 IN RCA.93/2014 DTD. 16.12.2014 OF RENT CONTROL COURT, THRISSUR.

EXT.P6: ORDER IN I.A.NO.176/2015 IN RCA.93/2014 DTD.27.1.2015 OF RENT CONTROL APPELLANTE AUTHORITY, THRISSUR.

RESPONDENTS' EXHIBITS: NIL

// TRUE COPY //

P.A TO JUDGE.

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 19th day of February, 2015.

J U D G M E N T

Antony Dominic, J.

Heard the learned counsel for the petitioner and learned counsel appearing for the 1st respondent-landlord. It is unnecessary to issue notice to the 2nd respondent, a co-tenant.

2. This original petition is filed challenging Ext.P6 order passed by the Rent Control Appellate Authority, Thrissur. The background of the case is that the 1st respondent herein (landlord) filed R.C.P.No.69/2013 before the Rent Control Court, Thrissur, seeking eviction of the petitioner herein and 2nd respondent. In the R.C.P, the 1st respondent filed I.A.No.16069/2013 for an order requiring the tenants to pay the admitted arrears of rent as provided under Sec. 12 of the Rent Control Act. The Rent Control Court, Thrissur considered the I.A and passed Ext.P3 order requiring the tenants to pay the admitted arrears. That order was not complied with and therefore, the Rent Control Court, Thrissur passed Ext.P4 order directing the tenants to vacate from the premises. Challenging

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Ext.P4 order, the petitioner herein filed R.C.A.No.93/2014 before the Rent Control Appellate Authority, Thrissur. Along with the appeal, he also filed I.A.No.4408/2014 seeking stay of Ext.P4 and in that I.A, the Appellate Authority passed Ext.P5 ex-parte order of stay. The 1st respondent entered appearance, filed his counter and brought up I.A.No.4408/2014 for hearing. In the meanwhile the petitioner also filed I.A.No.176/2015 seeking extension of the stay already granted. In I.A.No.176/2015, the Appellate Authority passed Ext.P6 order dismissing I.A.No.4408/2014. It is in this background, this O.P is filed.

3. When the O.P was taken up for hearing, the learned counsel for the petitioner submitted that the petitioner is willing to discharge the entire liability due under Ext.P3 order passed by the Rent Control Court and requested that Rent Control Court may be directed to dispose of the Rent Control Petition on merits.

4. From the facts we have narrated, it is evident that the basic order which led to Ext.P4 and the appeal is Ext.P3 order under Sec. 12. Therefore, if the amount due under

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Ext.P3 is paid, rest of the orders subsequently passed, will lose its efficacy. In such circumstances, we dispose of this original petition with the following directions.

(i) That as agreed before this Court, the petitioner shall pay to the landlord the entire amount due under Ext.P3 within ten days from today. On such payment, Exts.P3 & P4 orders will stand set aside and the Rent Control Court, Thrissur will proceed to dispose of R.C.P.No.69/2013 on merits.

(ii) The petitioner will also simultaneously get R.C.A.No.93/2014 dismissed as not pressed.

(iii) Needless to say that in the event of the undertaking before this Court is not complied with, the Execution Court will proceed to execute Ext.P4 order passed by the Rent Control Court, Thrissur.

The O.P is disposed of as above.

**ANTONY DOMINIC,
Judge.**

**ALEXANDER THOMAS,
Judge.**

bkn/-