

IN THE HIGH COURT OF KERALAAT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

OP (RC).No. 27 of 2015 (O)

(ORDER IN IA.8432/14 IN RCP.33/14 DATED 16.1.2015 OF ADDL. MUNSIFF COURT,
THIRUVANANTHAPURAM)

PETITIONER(S):

DR.C.V GANGADHARAN, AGED 64 YEARS
S/O LATE VELAPPAN, PROPRIETOR AND PHYSICIAN
OF M/S. PATHAYAM NATUROPATHIC CLINIC, TC7/642, NAGILA
KADAPPANAKUNNU, PEROORKADA
THIRUVANANTHAPURAM 695 043.

BY ADV. SRI.T.P.PANKAJAKSHAN

RESPONDENT(S):

K.NAGACHANDRAN, AGED 64 YEARS
S/O. LATE N. KRISHNA PILLAI, KRISHNA VIHAR
FOREST OFFICE LANE, TC 14/1637, VAZHURTHACAUD
THIRUVANANTHAPURAM PIN-695014

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON
20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 27 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF TRHE RENT CONTROL PETITION OF 33/2014
EXHIBITP2: TRUE COPY OF THE WRITTEN STATEMENT SUBMITTED BY THE
COUNTER AFFIDAVIT
EXHIBITP3: TRUE COPY OF THE AFFIDAVIT BY THE PETITIONER
EXHIBIT P4: TRUE COPY OF THE PETITION NO.8432/14
EXHIBIT P5: TRUE COPY OF THEOBJECTION TO COMMN. APPLICATION NO.8432/2014
BY THE PETITIONER
EXHIBIT P6: TRUE COPY OF THE AFFIDAVIT FILED IN SUPPORT OF IA NO.8846/2014 BY
THE PETITIONER
EXHIBITP7: TRUE COPY OF THE PETITION IN IA 8846/2014 COMMISSION APPLICATION
DT.18.10.2014
EXHIBIT P8: TRUE COPY OF THE OBJECTION TO THE COMMISSION APPLICATION
DT.18.10.2014
EXHIBIT P9: TRUE COPY OF THE ORDEER PASSED IN IA NO.8432/2014
EXHIBIT P10: TRUE COPY OF THE ORDER PASSED IN I.A. 8846/2014

/True copy/

PS to Judge

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

O.P(RC).No.27 of 2015

Dated this the 20th day of February, 2015

JUDGMENT

Antony Dominic, J.

1.Challenge in this original petition is against Ext.P10 order passed by the Rent Control Court, Thiruvananthapuram, dismissing I.A.8846/14 filed by the petitioner tenant in RCP.33/14 filed by the respondent landlord. The respondent landlord filed the RCP seeking eviction of the tenant. In that RCP, landlord filed a commission application as per I.A.8432/14 and that was allowed by the court by Ext.P9 order. Simultaneously, the court considered I.A.8846/14 filed by the tenant for the issuance of an advocate commission and that was rejected by Ext.P10 order. The reason stated in Ext.P10 for such rejection is that the matters sought to be ascertained are unnecessary for the disposal of the cases and that at any rate, those are issues which could be proved by the petitioner by adducing oral and documentary evidence. It is this order which is under challenge before us.

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

3. We do agree with the court below that the matters which are sought to be ascertained by the commission in the IA filed by the petitioner are issues which are capable of being proved by oral or documentary evidence.

4. Counsel for the petitioner then contended that the tenant is claiming the benefit of the second proviso to section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 and that it was also to prove the ingredients of the said proviso, the application was made. However, we are unable to find that any one of the matters sought to be ascertained by the tenant come within the two limbs of the second proviso to section 11(3) of the Act. In such circumstances, we are not inclined to interfere with the impugned order.

Original petition fails. It is accordingly dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
ALEXANDER THOMAS, Judge.

kkb.