

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

OP (RC).No. 28 of 2015 (O)

(EP NO.55/12 IN RC(OP) NO.1/05 OF THE RENT CONTROL COURT, PUNALUR)

PETITIONER:

**PANNA DURAI,
P.M.C.NO.X/343, NEAR KAVITHA HOTEL, MARKET ROAD
PUNALUR.**

**BY ADVS.SRI.D.SAJEEV
SMT.LEGEY ANTONY**

RESPONDENT:

**JOHN JOHNSON,
VAISAK, VANMALA, PIRAVANTHOOR
PATHANAPURAM
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
MONCY JOHNSON
VAISAK, VANMALA, PIRAVANTHOOR
PATHANAPURAM-689696.**

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 28 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 TRUE COPY OF THE ORDER DATED 18.08.2008 IN R.C.(O.P)NO.1 OF 2005 ON THE FILE OF THE RENT CONTROL COURT,PARUR

EXT.P2 TRUE COPY OF THE APPEAL MEMORANDUM IN R.C.(APPEAL)NO.16/2013 PENDING BEFORE THE RENT CONTROL APPELLATE AUTHORITY,KOLLAM

EXT.P3 TRUE COPY OF THE PETITION IN I.A.1731/2013 IN R.C.APPEAL NO.16/2013 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY,KOLLAM

EXT.P4 TRUE COPY OF THE EXECUTION PETITION IN E.P.55/2012 IN R.C.(O.P),NO 1/2005 ON THE FILE OF THE RENT CONTROL COURT,PUNALUR

EXT.P5 TRUE PHOTOCOPY OF THE COMMON ORDER DATED 29.01.2015 ON R.C.R.NOS.5,122 AND 123 OF 2010,333 OF 2011 AND 274 OF 2012.

RESPONDENT(S)' EXHIBITS NIL

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PA TO JUDGE

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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OP (RC) No. 28 of 2015
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Dated this the 23rd day of February, 2015

J U D G M E N T

Antony Dominic, J.

The petitioner, respondent in RC(OP) No.1/2005 on the file of Rent Control Court, Punalur filed by the respondent landlord under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, suffered an order of eviction. Aggrieved by that order, the petitioner has filed RCA No.16/13 before the Rent Control Appellate Authority, Kollam. That appeal was filed with an application to condone delay of 1789 days and also I.A. to stay further proceedings in the execution petition filed to execute the decree passed by the Rent Control Court. In this OP, what is sought for is stay of proceedings before the Execution Court pending condonation of delay by the Rent Control Appellate Authority.

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

3. An original petition filed under Article 227 of the Constitution of India is maintainable against the Rent Control Appellate Authority or the Rent Control Court only when it acts in

excess of its jurisdiction or commits grave irregularity causing injustice. This is a case where a belated appeal has been filed along with an application for condonation of delay and for stay. Orders have not been passed on the delay condonation application and no orders have been passed on the stay petition as well. This, therefore, shows that, as things now stand, the Rent Control Court or the appellate authority cannot be accused of having acted in excess of its jurisdiction or have committed any grave illegality or irregularity. We, therefore, are not inclined to entertain this OP.

OP is, therefore, dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

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PA to Judge