

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

OP (RC).No. 34 of 2015 (O)

AGAINST THE ORDER IN I.A.NO.4336/2010 IN RCP 23/1999 of PRINCIPAL RENT
CONTROL COURT (PRL. MUNSIFF COURT), KOLLAM DATED 17.7.2013

PETITIONERS:

1. K.CHANDRAMATHY, AGED 41 YEARS,
ANIL BHAVAN, NJARAKKAL CHERRY,
THRIKKADAVOOR VILLAGE, KOLLAM - 691 601
2. ANIL KUMAR, ANIL BHAVAN,
NJARAKKAL CHERRY,
THRIKKADAVOOR VILLAGE, KOLLAM - 691 601
3. AMBILY, ANIL BHAVAN,
NJARAKKAL CHERRY,
THRIKKADAVOOR VILLAGE, KOLLAM - 691 601

BY ADV. SRI.RIJI RAJENDRAN

RESPONDENT:

B.SIVAPRASAD,
KOCHUKUZHAYATHU KIZHAKKE
PUTHEN VEEDU, MURUNTHAL CHERRY,
THRIKKADAVOOR, KOLLAM - 691 601

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT DTD.12.4.2007 IN RCR.NO.120/2007.

EXT.P2: COPY OF THE AFFIDAVIT FILED BY THE RESPONDENT BEFORE THE
EXECUTION COURT IN E.P.NO.242/2005.

EXT.P3: COPY OF THE INTERLOCUTORY APPLICATION NO.4336/2010 IN
RCP.NO.23/1999.

EXT.P4: CERTIFIED COPY OF THE ORDER IN IA.NO.4336/2010.

RESPONDENT'S EXHIBITS:

NIL

// TRUE COPY //

P. A TO JUDGE.

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 5th day of March, 2015.

J U D G M E N T

Antony Dominic, J.

The Original Petition is filed seeking to challenge Ext.P4, an order passed by the Rent Control Court, Kollam in I.A.No.4336/2010 in R.C.P.No.23/1999. The Rent Control Petition was filed by the respondent-landlord, seeking eviction of the petitioner-tenant under Sec. 11(4)(iv) of the Kerala Buildings (Lease and Rent Control) Act. The Rent Control Petition was allowed. However, alleging that the landlord did not complete the reconstruction within the time undertaken before the court, the tenant filed I.A, a copy of which is produced as Ext.P3, seeking a prayer that he be directed to be put in possession of the building and allow him to reconstruct the building. In that I.A, the Rent Control Court passed Ext.P4 order finding that there was breach on the part of the landlord in reconstructing the building as undertaken and levying fine of Rs.500/-, as provided in the first proviso to Sec. 11(4)(iv) of the Act. It is this order which is under challenge before us.

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2. Though we heard the counsel for the petitioner, we are not inclined to entertain this Original Petition for the reason that Ext.P4 order impugned before us rendered by the Rent Control Court was as early as on 17.7.2013. However, the delay is sought to be explained by the counsel for the petitioner by pointing out that it has happened on account of the fact that the 2nd petitioner was laid up. First of all, even if it is assumed that the 2nd petitioner was laid up, nothing prevented petitioners 1 & 3 to challenge Ext.P4 within a reasonable time.

In such circumstances, without prejudice to the rights, if any that the petitioners may have in the matter, this Original Petition is dismissed.

**ANTONY DOMINIC,
Judge.**

**ALEXANDER THOMAS,
Judge.**

bkn/-