

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 MARCH 2015/28TH PHALGUNA, 1936

OP (RC).No. 35 of 2015 (O)

**AGAINST THE ORDER/JUDGMENT IN RCP 22/2011 of RENT CONTROL COURT,
TRIVANDRUM**

PETITIONER(S)/COUNTER PETITIONER:

**A.ASLAM AGED 35 YEARS
S/O.LATE ABDUL LATHEEF, RESIDING AT T.C. 46/223
DARUL SALAM, PARUTHIKUZH, POONTHURA
THIRUVANANTHAPURAM**

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT(S)/PETITIONER:

**S.H.MAHEEN, AGED 42 YEARS
S/O.SHAHUL HAMEED, MANAGING TRUSTEE
SHA SHOPPINGCOMPLEX, CHALAI BAZAR, THIRUVANANTHAPURAM.**

**BY ADV. SRI.VEMBAYAM A.A.HAKKIM
BY ADV. SRI.A.CHANDRA BABU**

**THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 19-03-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE PHOTOCOPY OF THE EX-PARTE ORDER OF EVICTION DATED 15.10.2012
IN R.C.P NO.22/2011 OF THE ADDITIONAL MUNSIF'S COURT (RENT CONTROL COURT), THIRUVANANTHAPURAM
EXT.P-2: TRUE PHOTOCOPY OF PETITION TO SET ASIDE EX-PARTE ORDER FILED AS I.A.NO.9026/2014 IN R.C.P NO.22/2011 DATED 30.10.2014
EXT.P-3: TRUE PHOTOCOPY OF PETITION TO CONDONE DELAY FILED AS I.A.NO.9027/2014 IN R.C.P NO.22/2011 DATED 30.10.2014
EXT.P-4: TRUE PHOTOCOPY OF THE COUNTER AFFIDAVIT FILED BY RESPONDENT TO EXHIBIT-P2 AND P3 DTD 24.11.2014
EXT.P-5: TRUE PHOTOCOPY OF PROOF AFFIDAVIT SWORN AND FILED ON 10.12.2014 IN R.C.P NO.22/2011
EXT.P-6: TRUE PHOTOCOPY OF WITNESS SCHEDULE FILED ON 10.12.2014 IN R.C.P NO.22/2011
EXT.P-7: TRUE PHOTOCOPY OF I.A.NO.983/2015 FILED BY RESPONDENT IN O.P (RCP) NO.22 OF 2011 DATED 2.2.2015
EXT.P-8: TRUE PHOTOCOPY OF THE ORDER DATED 20.2.2015 OF ADDITIONAL MUNSIF'S COURT (RENT CONTROL COURT), THIRUVANANTHAPURAM IN I.A.NO.9027/2014 IN R.C.P NO.22/2011
EXT.P-9: TRUE PHOTOCOPY OF THE ORDER DATED 20.2.2015 OF ADDITIONAL MUNSIF'S COURT (RENT CONTROL COURT), THIRUVANANTHAPURAM IN I.A.NO.9026/2014 IN R.C.P NO.22/2011

RESPONDENT(S)' EXHIBITS

NIL.

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///True copy///

P.S. to Judge

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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O.P. (FC) No. 35 of 2015

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Dated this the 19th 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 respondents.

2. Challenge in this original petition is against Exts.P-8 and P-9. The respondent landlord filed R.C.P.No. 22/2011 on the file of the Rent Control Court, Thiruvananthapuram, seeking eviction of the petitioner under Sec.11(2)(b) of the Rent Control Act. That petition was decided ex parte by Ext.P-1 order dated 15.10.2012. Seeking execution of the order, the landlord filed E.P.No.273/2014. Thereafter, the petitioner filed Exts.P-2 and P-3, I.A.Nos.9026/2014 and 9027/2014 seeking to set aside Ext.P-1 order and to condone the delay of 715 days in filing Ext.P-2. By Ext.P-8 order, the Rent Control Court rejected the prayer for condonation of delay and consequently, by Ext.P-9 order, Ext.P-2 I.A. was also dismissed. It is in this background this Original Petition is filed.

3. Yesterday when the Original Petition was taken up for hearing, the learned counsel for the petitioner expressed his willingness to pay the entire amount including the arrears due under the notice and the arrears till date to the landlord in order to avoid an eviction pursuant to Ext.P-1. Thereupon, we directed the learned counsel for the landlord to obtain instructions in the matter and on instructions today, it is reported that the landlord will be satisfied if payment is made as offered by the learned counsel for the tenant.

4. In the light of the submissions made as above and as agreed by the parties, the following orders are passed:

(i) The tenant shall pay the entire rent in arrears including the arrears due under the notice and the arrears till date (rent arrears from April 2008 onwards). The full amount shall be paid in four equal monthly instalments. The first instalment shall be paid on or before 10.4.2015 and the subsequent instalments shall be paid on or before 10th of every succeeding month.

(ii) The Principal Munsiff's Court, Thiruvananthapuram, where E.P.No.273/2014 in R.C.P.No.22/2011 is now pending, will

keep the execution petition pending during four months' time as above.

(iii) On payment as above, along with interest due under the Act and notice charge, the E.P. will be closed and if default is committed, the E.P. will be proceeded with.

The Original Petition is disposed of as above.

Sd/-
ANTONY DOMINIC, JUDGE

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge