

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

OP (RC).No. 45 of 2015 (O)

(AGAINST IA NO.3729/2014 IN RCP NO.148/2011 ON THE FILE OF THE RENT CONTROL
COURT/ADDITIONAL MUNSIF-I, KOZHIKODE)

PETITIONER(S)/PETITIONER/RESPONDENT:

ABDUL NAZAR @ T.T.NAZAR AGED 50 YEARS,
S/O THITHOTTATHIL ABDULLA KOYA,
QQ,483, MANAR HOUSE, VALORAPARAMB,
CHERUVATTAKADAVU, KURUVATHOOR AMSOM,
CHERUVATTU DESOM, KOZHIKODE TALUK.

BY ADV. SRI.JOSE KURIAKOSE (VILANGATTIL)

RESPONDENT(S)/RESPONDENT/PETITIONER:

ALIKUTTY, S/O.PARAMBADY AMBICHIKOYA,
AGED 77 YEARS,
CHELAVOOR AMSOM & DESOM,
KOZHIKODE TALUK,
CHELAVOOR PO.

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 24-03-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:TRUE COPY OF THE PETITION DATED 15/12/2011 IN RCP NO.148/2011 ON THE FILE OF THE RENT CONTROL COURT/ADDITIONAL MUNSIF-1, KOZHIKODE.

EXT.P2: TRUE COPY OF the OBJECTION DATED 3.12.2012 IN RCP NO.148/2011.

EXT.P3: TRUE COPY OF THE COMMISSION REPORT DATED 7.11.13 IN RCP NO.148/2011.

EXT.P4: TRUE COPY OF THE IA NO.2348/2014 DATED 19.7.2014 IN RCP NO.148/2011.

EXT.P5: TRUE COPY OF THE WORK MEMO DATED 25.8.2014 IN IA NO.2348/2014.

EXT.P6: TRUE COPY OF THE COMMISSION REPORT DATED 13.10.2014 IN RCP NO.148/2011.

EXT.P7: TRUE COPY OF THE IA NO.3729/2014 DATED 24.10.2014 IN RCP NO.148/2011.

EXT.P8: TRUE COPY OF THE COUNTER DATED 29.10.2014 IN IA NO.3729/2014.

EXT.P9: TRUE COPY OF THE ORDER DATED 16.1.2015 IN IA NO.3729/2014.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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OP (RC) No. 45 of 2015
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Dated this the 24th day of March, 2015

J U D G M E N T

Antony Dominic, J.

In this OP filed by the tenant in RCP No.148/11 on the file of the Rent Control Court, Kozhikode, the prayer is to set aside Ext.P9 order passed rejecting IA No.3729/14 filed by the petitioner seeking to set aside the commission report.

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

3. Reading of Ext.P9 order passed by the Court itself shows that already there are three commission reports and according to the petitioner, in the last report, several factual matters which are reported by the Commissioner are incorrect and it is on that basis, he seeks to have the report set aside. In so far as these objections raised by the learned counsel for the petitioner are concerned, factual objections that are raised can always be substantiated by the petitioner by adducing oral evidence in the case and therefore the contention now raised by the petitioner does not justify an order to set aside the commission report itself. Therefore, we are not inclined

to think that the lower court has committed any irregularity in declining to set aside the commission report as prayed for by the petitioner.

In such circumstances, this OP is dismissed leaving it open to the petitioner to adduce oral evidence to substantiate the contentions, including on those issues which might suggest the conclusions and inferences of the commission to be factually erroneous, as claimed by him.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge