

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

OP (RC).No. 50 of 2015 (O)

AGAINST THE ORDER IN EP 56/2014 of RENT CONTROL COURT,
THIRUVANANTHAPURAM

PETITIONER(S)/PETITIONER DH:

SUBAIR
S/O.AHAMAD KANNU, T.C.39/1376, KACHERI VEEDU
CHALAI, THIRUVANANTHAPURAM.

BY SRI. SUBAIR (PARTY-IN-PERSON)

RESPONDENT(S)/RESPONDENTS/JD1 &2:

1. SHAREEFA
W/O.PEERU MUHAMMAD, T.C.39/1378, EDAVILAKATHU VEEDU
CHALAI, THIRUVANANTHAPURAM.
2. SUBAIR
S/O.PEERU MUHAMAD, T.C.39/1378, EDAVILAKATHU VEEDU
CHALAI, THIRUVANANTHAPURAM.

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 21-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC) .No. 50 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1: TRUE COPY OF EP 56/2014 IN THE HON'BLE RENT CONTROL COURT
THIRUVANANTHAPURAM.

EXHIBIT-P2: COPY OF ORDER IN E.P 56/2014 IN O.P(B.R.C) 195/1975 BY
THE HON'BLE RENT CONTROL COURT, THIRUVANANTHAPURAM.

EXHIBIT-P3: TRUE COPY OF ORDER IN EA No.617/2014 DATED 03/09/2014
IN E.P 56/2014 IN THE HON'BLE RENT CONTROL COURT,
THIRUVANANTHAPURAM.

EXHIBIT-P4: TRUE COPY OF THE ORDER DATED 05.02.2015 IN E.A NO.75/2015
IN E.P 56/2014 OF MUNSIF COURT, THIRUVANANTHAPURAM.

EXHIBIT-P5: CERTIFIED TRUE COPY OF THE JUDGMENT IN OP(B.R.C) 195/1975 OF
THE RENT CONTROL COURT, THIRUVANANTHAPURAM.

EXHIBIT-P6: TRUE COPY OF THE JUDGMENT IN B.R.C.A NO.123/1976 OF THE RENT
CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM.

EXHIBIT-P7: TRUE COPY OF THE JUDGMENT IN B.R.C.R NO.153/1976 OF DISTRICT
COURT, THIRUVANANTHAPURAM.

EXHIBIT-P8: TRUE COPY OF THE JUDGMENT IN A.S 497/1986 OF THE 2ND
ADDITIONAL DISTRICT COURT, THIRUVANANTHAPURAM.

EXHIBIT-P9: TRUE COPY OF THE JUDGMENT IN CMA 130/1992 OF THIS HON'BLE
COURT.

EXHIBIT-P10: TRUE COPY OF THE MEMORANDUM OF CIVIL REVISION PETITION
235/2006 FILED BY THE PETITIONER HEREIN BEFORE THIS HON'BLE
COURT.

EXHIBIT-P11: TRUE COPY OF THE ORDER DATED 13.06.2013 OF THE LAND
TRIBUNAL, THIRUVANANTHAPURAM.

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

P.A TO JUDGE

v dv

K.SURENDRA MOHAN & MARY JOSEPH, JJ.

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O.P(RC) No.50 of 2015

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Dated this the 21st day of May, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner challenges Exts.P2 and P3 orders of the Principal Munsiff, Thiruvananthapuram. Petitioner claims to be the decree holder in O.P (B.R.C) No.195 of 1975 of the Rent Control Court, Thiruvananthapuram. The case of the petitioner is that, an order of eviction had been passed in his favour by the Rent Control Court, Thiruvananthapuram in O.P(B.R.C) No.195 of 1975. He alleges that, the respondents had, by putting forward untenable contentions, protracted the proceedings ever since, preventing him from enjoying the fruits of the order passed in his favour. Proceedings were pending before the Land Tribunal also. After the proceedings were culminated, he had preferred E.P No.56 of 2014 before the Munsiff's Court, Thiruvananthapuram for executing the order passed in his favour. However, by Ext.P2, the learned Munsiff has dismissed the E.P holding that the same was not maintainable. Though he preferred a review

petition, the same has also been dismissed by Ext.P3. The petitioner therefore seeks appropriate directions from this Court, for executing the order passed in his favour.

2. The petitioner has appeared before us in person. We have heard the petitioner in detail. We have also perused the records produced along with this petition.

3. Ext.P5 is the order of the Rent Control Court, Thiruvananthapuram in O.P(B.R.C) No.195 of 1975. The petitioner herein claims to be the son of the petitioner in Ext.P5. It is true that, in Ext.P5 an order of eviction has been passed in favour of the petitioner therein. The order of eviction has been passed on the grounds of arrears of rent. Ext.P5 is dated 10.01.1976. Ext.P5 was the subject matter of an appeal, B.R.C.A No.123 of 1976, before the Rent Control Appellate Authority, Thiruvananthapuram. Ext.P6 is the judgment in the said appeal, dated 12.10.1976. As per Ext.P6, the Appellate Authority has found that the denial of title of the landlord by the tenant was bonafide. Consequently, it has been held by the Appellate Authority that the order of eviction passed in favour of the petitioner was unsustainable. The Rent Control Petition filed by the

petitioner was therefore dismissed by Ext.P6. The resultant position is that, the order of eviction that the petitioner has sought to execute, is no longer in existence having been vacated by the Appellate Authority. The Munsiff Court has correctly found the above position and has dismissed the Execution Petition. We do not find any grounds to interfere with the said order or to grant any of the reliefs sought for by the petitioner.

In view of the above, this petition is dismissed.

Sd/-
K.SURENDRA MOHAN, JUDGE

Sd/-
MARY JOSEPH, JUDGE

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