

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V**

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

OP (RC).No. 54 of 2015 (O)

(AGAINST EP 226/14 IN RCP 22/13 ON THE FILE OF RENT CONTROL COURT, ALUVA)

PETITIONER(S):

- 1. MUNEER MOOPAN AGED 33 YEARS
S/O ABDUL KHADE,
SECRETARY, HOLY CRESCENT COLLEGE OF ARCHITECTURE,
MALIPPURAM NAGAR, SOUTH VAZHAKULAM, ALUVA.**
- 2. ABDUL KHADER AGED 55 YEARS,
S/O , PRESIDENT,
HOLY CRESCENT COLLEGE OF ARCHITECTURE, MALIPPURAM NAGAR,
SOUTH VAZHAKULAM, ALUVA.**

**BY ADVS.SMT.AYSHA YOUSEFF
SRI.V.K.SIDHIQUE
SMT.SAJITHA SIDHIK**

RESPONDENT(S):

**A.K.MUHAMMEDALI, AGED 52 YEARS,
S/O KHADER KUNJU, HAMD, EDATHALA NORTH,
ALUVA EAST VILLAGE 682 101.**

BY ADV. SRI.T.H.ABDUL AZEEZ

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC) NO.54/15

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF IA 489/15 FILED BY THE
PETITIONER BEFORE THE RENT CONTROL COURT, ALUVA.

EXT.P2: TRUE PHOTOCOPY OF IA 490/15 FILED BY THE
PETITIONER BEFORE THE RENT CONTROL COURT, ALUVA.

EXT.P3: TRUE PHOTOCOPY OF EA 85/15 FILED BY THE
PETITIONER BEFORE THE RENT CONTROL COURT, ALUVA.

EXT.P4: GIST OF ORDER DATED 1.4.15 IN EP 226/14 IN RCP
22/13 BEFORE THE RENT CONTROL COURT, ALUVA.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & RAJA VIJAYARAGHAVAN V., JJ.

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O.P.(R.C) No.54 OF 2015

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Dated this the 10th day of April, 2015

J U D G M E N T

Antony Dominic, J.

Petitioners are the respondents in RCP NO.22/13 on the file of Rent Control Court, Aluva. The said petition was filed by the respondent landlord seeking eviction on the ground of arrears of rent as provided in Section 11 (2)(b) and 11(4)(ii) of the Kerala Buildings (Lease and Rent Control), Act. An *ex parte* order of eviction was passed on 30/8/14. Thereafter, EP No.226/14 was filed by the landlord seeking execution of the order of eviction. At that stage, the petitioners filed IA No.489/15 and IA No.490/15 before the Rent Control Court seeking to set aside the *ex parte* order and to condone delay in filing the same. They also filed EA No.85/15 seeking to keep the execution proceedings in abeyance. The Rent Control Court dismissed the IAs filed and in the execution proceedings, order was passed for delivery of the property on 22/5/15. Thereafter, the Court pre-poned the Execution Petition and ordered delivery on 8/4/15 and for report on 9/4/15. It is in such circumstances, the original petition has been filed and in the

original petition, the petitioners state that they are ready to vacate the building by the end of May, 2015.

2. Taking note of the above limited request made by the petitioners, this Court passed order dated 8/4/15 issuing notice to the landlord and also staying further proceedings in EP No.226/14 mentioned above.

3. Today, we heard the learned counsel for the petitioners and the learned counsel for the landlord. Learned counsel for the landlord states that, as at present, substantial amounts are due towards arrears of rent and therefore, unless the petitioners clear the arrears of rent, no order as sought for by them should be passed. However, learned counsel for the petitioner states that the finding of the Rent Control Court is that arrears of rent to the tune of ₹7,20,000/- is due and according to him, the advance amount of ₹1,00,000/- paid to the landlord is still with him.

4. Taking note of the submissions made, we feel that the request of the petitioners for an unconditional order granting them time for surrendering vacant possession cannot be granted. In such circumstances, we direct that the petitioner shall pay an amount of ₹5,00,000/- (Rupees Five lakhs only) out of the total amount of arrears due from them and this

payment shall be made within a period of two weeks from today. Subject to payment of ₹5,00,000/- as ordered above within two weeks from today, we allow the petitioners time till 31/5/2015 to surrender vacant possession of the building. It is made clear that in case the condition is not complied with, the petitioners will not be eligible for the benefit of this judgment.

OP(R.C) is disposed of as above.

ANTONY DOMINIC, JUDGE

RAJA VIJAYARAGHAVAN V., JUDGE

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