

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

OP (RC) .No. 67 of 2015 ()

AGAINST THE ORDER IN I.A NO.193/2015 IN R.C.A NO.13/2013 OF RENT
CONTROL APPELLATE AUTHORITY, WAYANAD

AGAINST THE ORDER IN RCP 8/2011 of RENT CONTROL COURT, SULTHAN BATHERI
DATED 20-03-2013

PETITIONER(S) / PETITIONERS:

1. DR.VARUN AGED 32 YEARS
S/O.CHANDRASEKHARAN VAIDYAR
RESIDING AT ARUN NIVAS HOUSE, ERIYAPPALLY POST
PULPALLY AMSOM DESOM, S.BATHERY TALUK.
2. A.ARUN, AGED 34 YEARS
S/O.CHANDRASEKHARAN VAIDYAR
RESIDING AT ARUN NIVAS HOUSE, ERIYAPPALLY POST
PULPALLY AMSOM DESOM, S.BATHERY TALUK.

BY ADVS.SRI.K.RAKESH ROSHAN
SRI.MANSOOR.B.H.

RESPONDENT(S) / RESPONDENTS 2-5:

1. OMANA VARGESE,, AGED 51 YEARS
W/O.VARGHESE K.M., RESIDING AT KANNAMPARAMBIL HOUSE
KARTHIKA CONSORNUM HOUSING COLONY, THODUVATTY
BATHERY POST, SULTHAN BATHERY AMSOM DESOM
S.BATHERY TALUK 673 121.
2. TEENA VARGHESE,, AGED 29 YEARS
D/O.VARGHESE K.M., RESIDING AT KANNAMPARAMBIL HOUSE
KARTHIKA CONSORNUM HOUSING COLONY, THODUVATTY
BATHERY POST, SULTHAN BATHERY AMSOM DESOM
S.BATHERY TALUK 673 121.
3. TINTO VARGHESE,, AGED 24 YEARS
S/O.VARGHESE K.M., RESIDING AT KANNAMPARAMBIL HOUSE
KARTHIKA CONSORNUM HOUSING COLONY, THODUVATTY
BATHERY POST, SULTHAN BATHERY AMSOM DESOM
S.BATHERY TALUK 673 121.
4. TOJO VARGHESE,, AGED 24 YEARS
S/O.VARGHESE K.M., RESIDING AT KANNAMPARAMBIL HOUSE
KARTHIKA CONSORNUM HOUSING COLONY, THODUVATTY
BATHERY POST, SULTHAN BATHERY AMSOM DESOM
S.BATHERY TALUK 673 121.

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON
03-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 67 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF THE PETITION IN RCP NO.8/2011 OF RENT CONTROL COURT, SULTHANBATHERY

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 20/3/2013 IN R.C.P NO.8/2011 OF RENT CONTROL COURT, SULTHANBATHERI

EXT.P3: TRUE COPY OF PETITION IN IA NO.193/2015 IN R.C.A NO.13/2013 ON THE FILE OF RENT CONTROL APPELLATE AUTHORITY, KALPETTA

EXT.P4: TRUE COPY OF THE ORDER DATED 20/3/2013 IN IA NO.193/2013 IN R.C.A NO.13/2013 ON THE FILE OF RENT CONTROL APPELLATE AUTHORITY (DISTRICT JUDGE) KALPATTA WYNAD

RESPONDENT(S) ' EXHIBITS NIL

//True Copy//

P.A to Judge

vdv

K.SURENDRA MOHAN & MARY JOSEPH, JJ.

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O.P.(R.C) No.67 of 2015

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Dated this the 3rd day of June, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner/tenant has filed this Original Petition challenging Ext.P4 order of the Rent Control Appellate Authority, Kalpetta, Wayanad. As per the impugned order, the Appellate Authority has directed the petitioner to deposit an amount of Rs.2 lakhs as condition for entertaining the Rent Control Appeal. As per the order of the Rent Control Court against which the appeal has been filed, the petitioner has been directed to surrender vacant possession of the tenanted premises on the ground of arrears on rent. The contention of the petitioner is that, he had been paying rent into the bank account of the landlord. The counsel for the petitioner contends that, the condition imposed by the Appellate Authority is onerous. Therefore, he seeks interference with the condition alone.

2. This petition is posted before us for admission. We have heard the counsel for the petitioner. A perusal of the order of the Rent Control Court, Ext.P2, shows that, even according to the tenant,

the rent is in arrears from May 2010 onwards. Therefore, it is only appropriate that he pays at least the admitted rent. We notice that, the time fixed by the Appellate Authority for payment of the amount of Rs. 2 lakhs has expired on 02.06.2015. Hence, it is necessary to modify the interim order of the Appellate Authority suitably.

This Original Petition is therefore disposed of with the following directions.

- i) The condition in Ext.P4 directing the petitioner to deposit an amount of Rs. 2 lakhs as condition for maintaining the appeal, R.C.A No.13 of 2013, is modified and made subject to the petitioner depositing an amount of Rs.60,000/- within a period of two weeks of the receipt of a copy of this judgment.
- ii) The Rent Control Appellate Authority, Kalpetta, Wayanad is directed to take up R.C.A No. 13 of 2013 and to see that the appeal is finally disposed of as expeditiously as possible, at any rate, within a period of three months of the date of receipt of a copy of this judgment.

Sd/-

K.SURENDRA MOHAN, JUDGE

Sd/-

MARY JOSEPH, JUDGE