

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

OP (RC) .No. 83 of 2015 (O)

AGAINST THE ORDER/JUDGMENT IN RCA 7/2013 of I ADL.D.C., TRIVANDRUM
DATED 27-03-2013

AGAINST THE ORDER/JUDGMENT IN RCP 2/2012 of PRL.MUNSIF
COURT,NEDUMANGAD DATED
PETITIONER(S) :

P.SAINABA BEEVI AGED 59 YEARS
D/O PERUMMAL,
RESIDING AT SAINA MANZIL,
PAZHAKUTTY DESAM, THEEKUMURA,
NEDUMANGAD VILLAGE,
NEDUMANGADU.

BY ADVS.SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU

RESPONDENT(S) :

ABDUL NAZAR, AGED 48 YEARS
S/O THANLIKHAN,
RESIDING AT MANAKATTU VILAKAM VEEDU,
KADINAMKULAM DESAM,
KANIYAPURAM P.O.,
KADINAMKULAM VILLAGE,
THIRUVANANTHAPURAM - 695 522

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON
08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kkj

OP (RC).No. 83 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE MEMORANDUM OF RENT CONTROL APPEAL
R.C.A.NO.7 OF 2013 DATED 27.03.2013 ON THE FILE OF THE
RENT CONTROL APPELLATE COURT (1ST ADDITIONAL DISTRICT
COURT, TRIVANDRUM) .

EXT.P2: TRUE COPY OF THE JUDGMENT IN O.P.(RC) NO.147 OF 2014
DATED 18.12.2014 BY THIS HON'BLE COURT.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

PA TO JUDGE

**K.SURENDRA MOHAN &
MARY JOSEPH, JJ.**

O.P.(R.C) No.83 of 2015

Dated this the 8th day of July, 2015

J U D G M E N T

Surendra Mohan, J.

This original petition has been filed seeking the following reliefs:-

- (i) Issue an order directing the District Court, Trivandrum to issue the carbon copy as well as the certified copy of the judgment in R.C.A. No. 7 of 2013 within a time to be specified by this Hon'ble Court and in the meanwhile direct the executing court namely the Munsiff's Court, Nedumangad to stay all further proceedings in execution in R.C.P. No.2 of 2012, till such time after affording the petitioner an opportunity to file a revision before this Hon'ble Court against the impugned judgment or till such time to be prescribed by this Hon'ble Court.
- (ii) Grant such other reliefs which are appropriate and incidental to the proceeding and which this Hon'ble Court deems fit and proper.

2. The petitioner herein is a tenant against whom, the respondent had sought for an order of eviction from the 'Rent Control Court, Nedumangad in RCP No.2 of 2012.

O.P.(R.C) No.83 of 2015

The Rent Control Petition was allowed and an order of eviction was passed. The petitioner had unsuccessfully challenged the same in RCA No.7 of 2013 before the Rent Control Appellate Authority, Thiruvananthapuram. The said Appeal was heard and has been dismissed by judgment dated 30.06.2014. The petitioner is desirous of challenging the judgment of the Appellate Authority, in revision before this Court. According to her, she has submitted proper applications for the issue of a certified copy as well as a carbon copy of the judgment. I.A.No.2182 of 2015 dated 03.07.2015 is pending before the Appellate Authority. She has not been issued with a copy of the judgment, till date.

3. In the meanwhile, the landlord had filed an execution petition for executing the order of eviction passed against her. In the said petition, though delivery had been ordered, the same has been stayed as per the judgment dated 18.12.2014 of this Court in O.P.(R.C.) No.147 of 2014. The order of stay had continued to be in force till the final disposal of RCA No.7 of 2013. After the dismissal of the RCA, the landlord has filed an affidavit before the Execution

Court and has sought for delivery of the property. If delivery is effected before the petitioner is able to obtain a copy of the judgment in the RCA and to file a revision before this Court, her right to file revision would be defeated. Therefore, the petitioner seeks a stay of the execution proceedings, until a copy of the judgment in RCA No.7 of 2013 is issued to her.

4. Heard. Since the petitioner has already submitted a proper application for the issue of a copy of the judgment in RCA No.7 of 2013, it is only appropriate that the execution proceedings are kept in abeyance, until she is able to obtain a copy of the judgment for the purpose of filing a Revision before this Court. Therefore, we are satisfied that this is a case in which the petitioner is entitled to the relief sought for. Since we are granting only some time to the petitioner, we do not consider it necessary to issue notice to the respondent.

In the result, this original petition is ordered as follows:-

1. The Principal Munsiff's Court, Nedumangad is

directed to keep in abeyance all further proceedings to execute the order of eviction granted by the Rent Control Court, Nedumangad in RCP No.2 of 2012 for a period of three weeks of the date of production of a copy of this judgment.

2. The Rent Control Appellate Authority, Thiruvananthapuram is directed to issue either a certified copy or a carbon copy of the judgment dated 30.06.2015 in RCA No.7 of 2013 to the petitioner, as expeditiously as possible and at any rate within a period of two weeks of the date of receipt of a copy of this judgment.
3. The above Original Petition is disposed of with the above directions.

Sd/-
K.SURENDRA MOHAN,
JUDGE

Sd/-
MARY JOSEPH
JUDGE