

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

OP (RC).No. 96 of 2015 (O)

RCA 11/2015 of RENT CONTROL APPELLATE AUTHORITY (D.C.),
KALPETTA, WAYANAD.
RCP NO.2 OF 2013 OF RENT CONTROL COURT (MUNSIFF), KALPETTA.

PETITIONER:

ABDUL KABEER, AGED 47 YEARS
S/O. BEERAN, PONNACHAN HOUSE, KUNNAMANGALAMKUNNU
MEPPADI P.O., KOTTAPADI VILLAGE, VYTHIRI TALUK
WAYNAD DISTRICT.

BY ADV. SRI.K.RAKESH

RESPONDENT:

T.K.NASER, AGED 38 YEARS
S/O. ABOOBACKER, THAIKKANDY HOUSE, UPPUPARA
THRIKKAIPATTA P.O., KOTTAPADI VILLAGE, VYTHIRI
WAYNAD DISTRICT.

BY ADV. SRI.SAJEEVAN KURUKKUTTIYULLATHIL
BY ADV. SMT.SARITHA THOMAS

THIS OP (RENT CONTROL) HAVING BEEN FINALLY HEARD ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 96 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE ORDER DT. 24.2.2015 OF THE RENT CONTROLLER (MUNSIFF), KALPETTA IN RCP NO. 2/2013.

P2 - TRUE COPY OF THE RENT CONTROL APPEAL NO. 11/2015 AND STAY PETITION IN IA 188/2015 FILED BEFORE THE APPELLANT AUTHORITY (DISTRICT COURT, WAYNAD).

P3 - TRUE COPY OF THE PLAINT IN OS 179/2015 FILED BEFORE THE MUNSIFF COURT, KALPETTA DT. 06.7.2015.

P4 - TRUE COPY OF THE AFFIDAVIT FILED BY THE PETITIONER IN EP NO. 27/2015 IN RCP NO. 2/2013 DT. 27.7.2015 BEFORE THE RENT CONTROLLER (MUNSIFF), KALPETTA.

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**P. N. RAVINDRAN
&
BABU MATHEW P. JOSEPH, JJ.**

O. P. (RC) No.96 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

P. N. Ravindran, J.

The petitioner is the tenant in R.C.P.No.2 of 2013 on the file of the Rent Control Court, Kalpetta. The respondent is the landlord therein. By order passed on 24-02-2014, the rent control court allowed R.C.P.No.2 of 2013 and ordered eviction under sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965, hereinafter referred to as the "Act", for short. Aggrieved thereby the tenant filed R.C.A.No.11 of 2015 on the file of the Rent Control Appellate Authority, Kalpetta. Along with the appeal, he also filed I.A. No.188 of 2015 for an order staying the execution of the order of eviction passed by the rent control court. Since the respondent landlord had lodged a caveat, an ad-interim order of stay was not granted. Later, for non-appearance of the learned counsel for the petitioner on three consecutive postings I.A.No.188 of 2015 was ordered to be posted along with the appeal. In the meanwhile, the

landlord filed E.P.No.27 of 2015 in the Court of the Munsiff of Kalpetta, to execute the order of eviction and on that petition, after notice to the tenant, delivery was ordered. It is in the background of these facts that the instant original petition has been filed under Article 227 of the Constitution of India mainly for an order to keep the execution of the order of eviction in abeyance till R.C.A.No.11 of 2015 is heard and disposed of.

2. This original petition was admitted and an interim order staying the execution of the order of eviction was passed for a period of one month on 06-08-2015. The said interim order is even today in force. It is not in dispute that the landlord has entered appearance in R.C.A.No.11 of 2015. Such being the situation, we are of the opinion that the proper course would be to direct the Rent Control Appellate Authority where R.C.A.No.11 of 2015 is pending, to hear and dispose of the appeal in a time bound manner and to keep in abeyance the execution of the order of eviction until such time as the appeal is heard and disposed of. We accordingly, dispose of the original petition with the following directions:-

(a) The Rent Control Court, Kalpetta, shall forward the case records in R.C.P.No.2 of 2013 to the Rent Control Appellate Authority (District Court), Kalpetta, Wayanad, within two weeks from the date of receipt of a copy of this judgment for incorporation in the records in R.C.A.No.11 of 2015.

(b) The Rent Control Appellate Authority (District Court), Kalpetta, Wayanad, shall within two months from the date of receipt of the records from the Rent Control Court, Kalpetta, hear and dispose of R.C.A.No.11 of 2015.

(c) Until such time as R.C.A.No.11 of 2015 is heard and disposed of as directed above, execution of the order of eviction passed in R.C.P. No.2 of 2013 on the file of the Rent Control Court, Kalpetta, shall stand stayed.

(d) In view of the admitted fact that the Court of the Munsiff of Kalpetta, has not passed an interim order of injunction in O.S. No.179 of 2015 insofar as it relates to the tenanted premises which is admittedly described in the 'B' schedule to the plaint therein, we are of the opinion that the petitioner tenant should deposit the entire arrears

of rent due in respect of the petition schedule shop room within three weeks from today and continue to deposit the rent in the rent control court as and when it falls due. In the event of failure, it will be open to the landlord to move the appellate authority for appropriate orders.

(e) In order to enable the court below to act as directed above, either of the parties shall produce a copy of this judgment on the next posting date namely 26-10-2015. They also appear through counsel on that day.

Sd/-
P. N. RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

