

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

OP (RC).No. 100 of 2015 (O)

EP 210/2011 IN R.C.P.NO.54/2009 of PRINCIPAL MUNSIF COURT,TRIVANDRUM
RCRP 1/2015 of RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM

PETITIONER :

N.S.SAJITHA AGED 48 YEARS
DAUGHTER OF NALINAKSHI AMMA, VP 1/1197, KARIKOTTHIL
PALLIMUKKU, PEYAD, THIRUVANANTHAPURAM.

BY ADVS.SRI.V SURESH
SRI.G.SUDHEER

RESPONDENT :

INDIRA SREEDHARAN NAIR
DAUGHTER OF PARUKUTTY AMMA, TC 36/1373, PERUMTHANNI
PETTAH VILLAGE, THIRUVANANTHAPURAM - 695 001.

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 22-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE ORDER DT. 20.7.2010 IN R.C.P NO. 54/2009 PASSED BY THE RENT CONTROL COURT, THIRUVANANTHAPURAM.

P2 - TRUE COPY OF THE EXECUTION PETITION NO. 210/2011 IN RCP NO. 54/2009 FILED BY THE PETITIONER BEFORE THE PRINCIPAL MUNSIF COURT, THIRUVANANTHAPURAM.

P3 - TRUE COPY OF THE JUDGMENT DT. 08.3.2012 IN RCA NO. 2/2011 PASSED BY THE COURT OF THE ADDITIONAL RENT CONTROL APPELLATE COURT - II, THIRUVANANTHAPURAM.

P4 - TRUE COPY OF THE ORDER DT. 30.3.2012 IN RCR NO. 128/2012 OF THIS HONOURABLE COURT.

P5 - TRUE COPY OF THE PETITION IN RCP NO. 54/2009 IN EP NO. 210/2011 FILED BY THE RESPONDENT BEFORE THE PRINCIPAL MUNSIF'S COURT, THIRUVANANTHAPURAM DT. 28.7.2012.

P6 - TRUE COPY OF THE RCRP NO. 1/2015 FILED BY THE RESPONDENT BEFORE THE RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM DT. 20.5.2015.

P7 - TRUE COPY OF STAY PETITION IN RCRP NO. 1/2015 FILED BY THE RESPONDENT BEFORE THE RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM DT. 31.7.2015.

P8 - TRUE COPY OF THE CORRECTION PETITION IN RCRP NO. 1/2015 FILED BY THE RESPONDENT BEFORE THE RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM DT. 31.7.2015.

P9 - TRUE COPY OF ADJOURNMENT PETITION IN RCRP NO. 1/2015 FILED BY THE PETITIONER BEFORE THE RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM DT. 22.7.2015.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

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

O.P.(R.C.).No.100 of 2015

Dated this the 22nd day of September, 2015.

J U D G M E N T

P.N.Ravindran, J.

The petitioner is the landlord in R.C.P.No.54 of 2009 on the file of the Rent Control Court, Thiruvananthapuram. The sole respondent is the tenant therein. By order passed on 26.07.2010, the Rent Control Court ordered eviction under sections 11(3) and 11(4)(ii) of the Kerala Buildings (Lease and Rent Control) Act, 1965. The appeal filed by the respondent/tenant as R.C.A.No.2 of 2011 was dismissed by the Additional Rent Control Appellate Authority-II, Thiruvananthapuram by judgment delivered on 06.03.2012. R.C.R.No.128 of 2012 filed by the respondent/tenant was dismissed by a Division Bench of this court by order passed on 30.03.2012. In that order, this court directed that in the event of the respondent/tenant discharging the entire arrears of rent as on 30.03.2012 within one month therefrom, the tenant will be given four months time to surrender vacant possession of the building. This court also observed that damages for use and occupation of the building for the period thereafter shall also be paid every month without fail till the date of such surrender. There was a further direction that the execution proceedings, if any, pending shall be

kept in abeyance till 31.07.2012.

2. The tenant did not comply with the said direction. Instead, she filed E.A.No.534 of 2012 in E.P.No.210 of 2011 describing it as an obstruction petition under Order XXI Rule 99 of the Code of Civil Procedure. By order passed on 13.03.2015, the execution court dismissed E.A.No.534 of 2012 in E.P.No.210 of 2011. The tenant thereupon filed R.C.R.P.No.1 of 2015 in the Court of the Additional District & Sessions Judge-VII of Thiruvananthapuram. Though the tenant filed I.A.No.1728 of 2015 in R.C.R.P.No.1 of 2015 praying for an order staying execution of the order for eviction, that application was heard and dismissed by order passed on 04.06.2015. The said revision petition is even today pending. The relief sought in the instant original petition is to direct the Additional District & Sessions Court-VII, Thiruvananthapuram where R.C.R.P.No.1 of 2015 is pending, to hear and dispose of the same within a time limit to be fixed by this court.

3. When this original petition came up for admission hearing before this court on 13.08.2015, a Division Bench of this court directed the Registry to call for a report from the Rent Control Appellate Authority, Thiruvananthapuram regarding the time frame within which R.C.R.P.No.1 of 2015 can be heard and disposed of. The Rent Control Appellate Authority has forwarded a report dated

01.09.2015 to the effect that R.C.R.P.No.1 to 2015 can be heard and disposed of before 31.12.2015. In the light of the aforesaid submission, we are of the opinion that even without notice to the respondent, this court will be perfectly justified in directing the Court of the Additional District & Sessions Judge-VII, Thiruvananthapuram where R.C.R.P.No.1 of 2015 is pending, to hear and dispose of the same expeditiously and in any event before 31.12.2015. Such an order will not cause any prejudice to the respondent or confer any unmerited advantage on the petitioner.

We accordingly dispose of the original petition with a direction to the Court of the Additional District & Sessions Judge-VII, Thiruvananthapuram where R.C.R.P.No.1 of 2015 is pending to hear and dispose of the said revision petition expeditiously and in any event before 31.12.2015.

Registry to communicate a copy of this judgment.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P.JOSEPH
JUDGE