

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

OP (RC).No. 101 of 2015 (O)

I.A.NO.5571/2015 IN R.C.P.NO.47/2014 OF RENT CONTROL COURT,
THIRUVANANTHAPURAM

PETITIONER :

JAYACHANDRAN AGED 50 YEARS
S/O.SIVASANKARAN NAIR, RESIDING AT PANCHAVADI
TC 28/760, PUNNAPURAM, PETTAH P.O.
THIRUVANANTHAPURAM.

BY ADVS.SRI.SANTHEEP ANKARATH
SRI.ARUN MATHEW VADAKKAN

RESPONDENT :

P.SANKARAN
S/O.PADMANABHA AYYAR, TC 28/1712, PAZHAVANGADI
THIRUVANANTHAPURAM-695 011.

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 20-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 101 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. TRUE COPY OF RENT CONTROL PETITION NO.47/2014 DATED 12/8/2014 FILED BY THE RESPONDENT BEFORE THE RENT CONTROL COURT, (ADDL. MUNSIF), THIRUVANANTHAPURAM.

EXT.P2. TRUE COPY OF THE OBJECTION DATED 12/2/2015 FILED BY THE PETITIONER HEREIN IN RCP NO.47/2014 BEFORE THE RENT CONTROL COURT, THIRUVANANTHAPURAM.

EXT.P3. TRUE COPY OF THE APPLICATION DATED 16/7/2015 AND NUMBERED AS IA 5571/2015 FILED BY THE PETITIONER HEREIN IN RCP NO.47/2014 BEFORE THE RENT CONTROL COURT, THIRUVANANTHAPURAM.

EXT.P4. TRUE COPY OF THE ORDER DATED 20/7/2015 IN IA NO.5571/2015 IN RCP NO.47/2014 PASSED BY THE ADDITIONAL MUNISFF (RENT CONTROL COURT) THIRUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A TO JUDGE

AV

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

O.P.(RC).No.101 of 2015

Dated this the 20th day of August, 2015.

J U D G M E N T

Surendra Mohan, J.

The petitioner is the tenant in R.C.P.No.47/2014 of the Rent Control Court, Thiruvananthapuram. The Rent Control Petition has been filed by the respondent landlord seeking an order of eviction on the grounds under Section 11(2) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act' for short). The Rent Control Petition was included in the special list for trial and was posted to 15.07.2015. Thereafter, it was adjourned to 20.07.2015. The petitioner then filed I.A.No.557/2015 for removal of the case from the list. The said petition has been dismissed by Ext.P4 order. The petitioner is aggrieved by the said order.

2. According to the petitioner, the respondent landlord had agreed to sell the tenanted shop room to him as per an agreement dated 16.04.2012. He had also received an amount of ₹2,50,000/- as part of the sale consideration. Since the agreement was not honoured, he has filed a suit for specific performance of the agreement. The same is O.S.No.944/2012 of the Sub Court, Thiruvananthapuram. The said suit is pending. According to the

learned counsel for the petitioner, similar agreements had been entered into with the other tenants of the building also. Since the landlord had not performed his part of the agreement, the other tenants have also filed similar suits. All the suits are posted together for being tried jointly. According to the learned counsel, if the Rent Control Petition is disposed of before the suits for specific performance are disposed of, that would cause irreparable injury and loss to the petitioner. Therefore, it is contended that the Rent Control Court ought to have awaited the final outcome of the said suits. The counsel for the petitioner points out that, the right of the respondent to maintain the Rent Control Petition itself would depend on the outcome of the suits for specific performance. Therefore, the counsel seeks interference with Ext.P4 order.

3. Heard. It is true that the tenant has filed a suit for specific performance of the agreement. The allegation of the petitioner is that, the landlord had agreed to sell the tenanted shop room to him. The genuineness of the agreement as well as the claim put forward by the tenant are the subject matter of the original suit. If the tenant succeeds in the suit for specific performance, he would certainly be able to execute the said decree and recover possession of the tenanted shop room, in execution of the said decree. However, if the suit is ultimately dismissed, the landlord would be prejudiced by the holding up of the trial to the Rent Control Petition.

We notice that, the grounds alleged are arrears of rent and bonafide need. If the landlord is able to establish the said grounds, he would certainly be entitled to an order of eviction. Such an order of eviction would not prejudice the rights of the tenant in any manner. The suit is pending before the Civil Court while the Rent Control Petition is tried by the Rent Controller. The nature of the proceedings are different. Therefore, it is not necessary for the trial of the Rent Control Petition to be held up awaiting a final decision in the suit.

We find that, the court below has approached the issue in the proper perspective. We find no grounds to interfere with the impugned order Ext.P4 or to grant any of the reliefs sought for. This writ petition is therefore, dismissed.

Sd/-

K. SURENDRA MOHAN, JUDGE

Sd/-

MARY JOSEPH, JUDGE