

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

OP (RC).No. 107 of 2015 (O)

E.P.NO.56/2013 IN RCP 10/04 OF RENT CONTROL COURT, CHANGANACHERRY

PETITIONER/PETITIONER/JD:

K.V.JOSEPH AGED 56 YEARS,
PROPRIETOR, DEEPHI PAPER INDUSTRIES,
NOTE BOOK MANUFACTURER AND PRINTER,
NEERIAMPARAMBIL BUILDING, VAZHAPPALLY EAST VILLAGE,
NEAR RAILWAY STATION, CHENGANACHARY, KOTTAYAM.

BY ADVS.SRI.ABRAHAM SAMSON
SMT.DEEPHI S.MENON

RESPONDENT/RESPONDENT/DH:

JOSE CHERIAN,
NERIAMPARAMBIL HOUSE, THURUTHY KARA,
VAZHAPPALLY WEST VILLAGE,
CHENGANACHERY TALUK, NOW EMPLOYED AS REGIONAL DIRECTOR,
EMPLOYEE STATE INSURANCE CORPORATION, THRISSUR-20.

R1 BY ADVS. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU
SRI.JOHNSON JOSE PANJIKKARAN
SMT.P.ANJANA
SRI.P.M.UNNI NAMBOODIRI

THIS OP (RENT CONTROL) HAVING BEEN FINALLY HEARD ON 10-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

vpv

P.N.RAVINDRAN & ANU SIVARAMAN, JJ.
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O.P.(R.C.)No.107 of 2015
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Dated this the 10th day of September, 2015

JUDGMENT

P.N.Ravindran, J.

The petitioner is the tenant in R.C.P.No.10 of 2004 on the file of the Rent Control Court, Changanacherry. The respondent is the landlord therein. The respondent/landlord obtained an order for eviction wayback on 25.10.2006 under section 11(2)(b) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as "the Act" for short). R.C.A.No.52 of 2006 filed by the petitioner herein was dismissed on 30.1.2008. When the order for eviction was sought to be executed, the petitioner herein filed W.P.(C)No.6753 of 2009 in this court contending that though overruling his objections delivery has been ordered in E.P.No.56 of 2013, a copy of the order directing delivery has not been issued and therefore, he is disabled from filing a revision petition under section 14 of the Act before the District Court. W.P.(C)No.6753 of 2009 was heard and disposed of by a learned single Judge, by judgment delivered on 3.3.2009 with a direction to the execution court to adjourn the delivery to 10.3.2009 in the event of the tenant (the petitioner herein) paying the sum of Rs.73,750/- to the landlord directly or through his counsel and

producing the receipt before the execution court on 10.3.2009. This court directed that if such a receipt is produced, the execution court will adjourn the delivery by another month and issue a certified copy of the order directing delivery forthwith. This court also observed that if the execution court does not notice the receipt filed by the petitioner regarding the payment of the sum of Rs.73,750/-, it will ensure that delivery is effected forthwith. It is not in dispute that pursuant to the said order, the sum of Rs.73,750/- was deposited. It is also not in dispute that till date, the order for eviction in R.C.P.No.10 of 2004 has not been executed and that the matter was being adjourned on one ground or the other. Ultimately by order passed on 19.8.2015, the Munsiff Court ordered delivery. The instant original petition was thereupon filed on 31.8.2015 praying for an order directing the execution court to issue a certified copy of the order passed by it on 19.8.2015 within a time frame and to stay further proceedings in E.P.No.56 of 2013 in the meanwhile.

2. When this original petition came up for admission hearing before a Division Bench of this court on 31.8.2015, this court while ordering notice to the respondent by special messenger, passed an interim order staying further proceedings in E.P.No.56 of 2013 in R.C.P.No.10 of 2004 on the file of the Rent Control Court,

Changanacherry. The original petition has come up before us today after service of notice on the respondents. We heard learned counsel on both sides. We have also gone through the pleadings and the materials on record. It is evident from the relief sought in the instant original petition that the only purpose behind the original petition is to enable the tenant to get a certified copy of the order passed by the execution court on 19.8.2015 for the purpose of filing a revision petition therefrom and seeking appropriate interim orders in such a revision petition. It is not now in dispute that the certified copy has since been issued. If that be so, it is for the petitioner/tenant to move the revisional court and seek appropriate further orders.

We therefore find no good grounds to keep the instant original petition pending. The original petition is accordingly closed as infructuous. Needless to say, the interim order passed by this court on 31.8.2015 shall stand vacated.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
ANU SIVARAMAN
JUDGE

/true copy/

P.A. To Judge