

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

OP (RC).No. 112 of 2015 (O)

**AGAINST THE ORDER/JUDGMENT IN IA 1636/2015 IN RCP 9/2012 of RENT CONTROL
COURT (ADDL.MUNSIFF), PALAKKAD DATED 18.6.2015**

PETITIONER(S):

**R.KASU AGED 52 YEARS
S/O. RAKKANDI, RESIDING AT PUZHAKKAL HOUSE, KOTTAPALLAM
KOTTEKKAD AMSOM DESOM, PALAKKAD DISTRICT.**

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS:

- 1. ABDUL RAHIMAN
S/O. HYDROSKUTTY, KALLEPULLY, PALAKKAD DISTRICT - 678 101.**
- 2. ADDITIONAL TAHSILDAR,
OFFICE OF THE ADDITIONAL TAHSILDAR
PALAKKAD - 678 001.**

R2 BY SR. GOVERNMENT PLEADER SMT.P.A.REZIYA.

**THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 14-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (RC).No. 112 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE REPORT FILED BY THE ADVOCATE COMMISSIONER IN R.C.P. 9/2012 BEFORE THE MUNSIF COURT (ADDITIONAL), PALAKKAD.
- EXHIBIT-P2- TRUE COPY OF THE B FORM NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 28/04/2015.
- EXHIBIT-P3- TRUE COPY OF THE PETITION AND AFFIDAVIT IN SUPPORT OF THE SAME AS I.A 1636/2015 IN R.C.P NO. 9/2012 BEFORE THE RENT CONTROL COURT (ADDITIONAL MUNSIF), PALAKKAD.
- EXHIBIT-P4- TRUE COPY OF THE ORDER DATED 18/06/2015 IN I.A 1636/2015 IN R.C.P 9/2012 PASSED BY THE RENT CONTROL COURT (ADDITIONAL MUNSIF), PALAKKAD.

RESPONDENT(S)' EXHIBITS NIL

/TRUE COPY/

P.A. TO JUDGE

VPV

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

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O.P.(R.C.)No.112 of 2015

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Dated this the 14th day of September, 2015

JUDGMENT

P.N.Ravindran, J.

The tenant in R.C.P.No.9 of 2012 on the file of the Rent Control Court (Additional Munsiff), Palakkad is the petitioner herein. In this original petition, he challenges Ext.P4 order passed by the rent control court on 18.6.2015 dismissing I.A.No.1636 of 2015, an application filed by him. The brief facts of the case are as follows:-

2. The respondent/landlord has instituted R.C.P.No.9 of 2012 for an order evicting the petitioner herein from the petition schedule building. Such a relief is sought on the averment that the landlord bonafide needs the petition scheduled shop room for his own business. One of the objections raised by the tenant in the objection filed by him in the rent control petition is that the landlord has no title over the plaint schedule shop room and that he has put up the building in poramboke land. The Additional Tahsildar, the competent authority under the Kerala Land Conservancy Act, 1957 (hereinafter referred to as "the Act" for short) had on coming to know of the said averment, initiated proceedings against the tenant under section 12 of the Act by

issuing Ext.P2 notice dated 28.4.2015. The petitioner thereupon filed I.A.No.1636 of 2015 before the rent control court praying that appropriate directions may be given to him as to the action to be taken by him in furtherance of the order passed by the Additional Tahsildar under the Act. The court below dismissed the said application by Ext.P4 order passed on 18.6.2015. Hence this original petition.

3. After hearing learned counsel appearing for the petitioner, we are in agreement with the rent control court that the remedy of the petitioner lies elsewhere. If the petitioner is aggrieved by Ext.P2, his remedy lies in challenging that order in appeal as provided under the Act. If the procedure prescribed in the Act has not been followed his remedy lies also in moving this court under Article 226 of the Constitution of India. The rent control court has no jurisdiction to invalidate Ext.P2. No exception can therefore be taken to the impugned order. The original petition fails and is accordingly dismissed.

Sd/-
P.N.RAVINDRAN
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

vpv