

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 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

OP (RC).No. 121 of 2015 (O)

AGAINST IA NO.1687/15 IN RCP 21/14 OF RENT CONTROL COURT, PERUMBAVOOR

PETITIONER/RESPONDENT:

**NAJEEB, AGED 45 YEARS,
S/O.HUSSAIN, VARIKKADAN HOUSE, PERUMBAVOOR,
ENRNAKULAM DISTRICT.**

**BY ADVS.SRI.SALIM V.S.
SRI.H.NUJUMUDEEN
SRI.V.T.RAGHUNATH**

RESPONDENT/PETITIONER:

**AJITHA LUKE,
MATTUMMEL HOUSE, PERUMBAVOOR
REPRESENTED BY P/A. HOLDER MARY, W/O.AJITH LUKE
MATTUMMEL HOUSE, PERUMBAVOOR P.O., ERNAKULAM DISTRICT
PIN-683 542.**

**BY ADVS. SRI.H.SIVARAMAN
SRI.MATHEW CHERIAN**

**THIS OP (RENT CONTROL) HAVING BEEN FINALLY HEARD ON 01-12-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP (RC).No. 121 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. TRUE COPY OF THE ORDER DATED 22/8/2015 PASSED BY THE RENT CONTROL COURT, PERUMBAVOOR IN IA NO.1459/2015 IN RCP 21/2014.

EXT.P2. TRUE COPY OF IA 1687/2015.

EXT.P3. TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN IA 1687/2015.

EXT.P4. TRUE COPY OF THE ORDER DATED 22/9/2015 IN IA 1726/2015.

EXT.P5. TRUE COPY OF THE ORDER DATED 22/9/2015 IN IA 1687/2015.

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.121 of 2015

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Dated this the 1st day of December, 2015

JUDGMENT

P.N.Ravindran, J.

The petitioner is the tenant in R.C.P.No.21 of 2014 on the file of the Rent Control Court, Perumbavoor, a petition filed by the respondent/landlord for an order of 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.

2. After the tenant entered appearance and filed his counter statement, the landlord filed I.A.No.1459 of 2015 under section 12 of the Act. On that application, the rent control court passed Ext.P1 order whereby it directed the tenant to deposit the sum of ₹2,20,000/- being the admitted arrears of rent within one month from 22.8.2015. The tenant did not deposit the sum of ₹2,20,000/-. He deposited only a portion thereof namely the sum of ₹66,000/-. The landlord thereupon filed I.A.No.1687 of 2015 to depute an Amin for the purpose of evicting the tenant. The tenant in turn filed I.A.No.1726 of 2015 for enlargement of time to deposit the admitted arrears. By Ext.P4 order passed on 22.9.2015 the rent control court dismissed I.A.No.1726 of

2015. By Ext.P5 order passed on the same day, the rent control court allowed I.A.No.1687 of 2015 and ordered eviction of the tenant on 26.9.2015. Exts.P4 and P5 orders are under challenge in this original petition filed under Article 227 of the Constitution of India.

3. This original petition was admitted and an interim order was passed on 29.9.2015 staying the operation of Ext.P5 order passed by the rent control court on 22.9.2015 on I.A.No.1687 of 2015 in R.C.P.No.21 of 2014 for a period of one month. The said order was later extended on 30.10.2015 by a further period of one month. When the original petition came up for hearing today, learned counsel on both sides submitted that after the original petition was filed, the tenant has deposited the entire sum of ₹2,20,000/-. Learned counsel appearing for the tenant also submitted that the arrears of rent that has fallen due after the period of ten months to which the deposit of the sum of ₹2,20,000/- relates, will be deposited within a further period of one month from today. Learned counsel appearing for the tenant also submitted that having regard to the deposit of the sum of ₹ 2,20,000/- made by the tenant and the undertaking now made and given by the tenant that the balance arrears of rent will be deposited within one month from today, the impugned orders may be set aside and the rent control court may be directed to dispose of the rent control petition on the merits expeditiously.

4. Sri.H.Sivaraman, learned counsel appearing for the respondent/ landlord submitted that the landlord has no objection in the rent control petition being heard and decided on the merits subject to the condition that he may be permitted to withdraw the sum of ₹2,20,000/- deposited by the tenant as also the balance arrears of rent to be deposited by the tenant within one month from today. Learned counsel also submitted that in the event of failure on the part of the tenant to deposit the balance arrears of rent within one month from today, the landlord may be given liberty to file a fresh application under section 12 of the Act.

In the light of the broad agreement arrived at between the parties, we allow this original petition, set aside Exts.P4 and P5 orders passed by the rent control court and direct the rent control court to dispose of R.C.P.No.21 of 2014 on the merits, expeditiously and in any event before the closure of the civil courts for the summer vacation of 2016. The tenant shall in addition to the sum of ₹2,20,000/- deposited by him, deposit the entire balance arrears of rent as on 30.11.2015 on or before 4.01.2016. In the event of default on the part of the tenant in depositing the balance arrears of rent, it will be open to the landlord to file a fresh application under section 12 of the Act and in the event of such an application being filed, the same shall be disposed of within one month from the date on which it is filed. It will be open to the

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landlord to withdraw the money already deposited by the tenant and also the arrears of rent to be deposited in future.

Sd/-

**P.N.RAVINDRAN
JUDGE**

Sd/-

**BABU MATHEW P. JOSEPH
JUDGE**

/true copy/

P.A. To Judge

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