

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:
THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS
MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936**

RCCRev..No. 8 of 2015 ()

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AGAINST THE ORDER/JUDGMENT IN RCA 52/2011 of ADDL.D.C. & ADDL.MACT,THALASSERY
DATED 11-04-2014**

**AGAINST THE ORDER/JUDGMENT IN RCP 51/2005 of MUNSIFF COURT, THALASSERY DATED
29-09-2010**

REVISION PETITIONER(S)/APPELLANTS/RESPONDENTS:-:

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- 1. V.RADHA, AGED 76 YEARS
W/O.LATE BALAN, RESIDING AT PARIYATTU HOUSE
P.O.NITTUR, THALASSERY TALUK, KANNUR DISTRICT
PIN - 670 105.**
 - 2. V.USHA, AGED 57 YEARS
D/O.LATE BALAN, RESIDING AT PARIYATTU HOUSE
P.O.NITTUR, THALASSERY TALUK, KANNUR DISTRICT
PIN - 670 105.**
 - 3. V.PREMI, AGED 55 YEARS
D/O.LATE BALAN, RESIDING AT PARIYATTU HOUSE
P.O.NITTUR, THALASSERY TALUK, KANNUR DISTRICT
PIN - 670 105.**
 - 4. V.MANOCHARAN, AGED 57 YEARS
S/O.LATE BALAN, RESIDING AT PARIYATTU HOUSE
P.O.NITTUR, THALASSERY TALUK, KANNUR DISTRICT
PIN - 670 105.**
 - 5. V.PRADEEPAN, AGED 53 YEARS
S/O.LATE BALAN, RESIDING AT PARIYATTU HOUSE
P.O.NITTUR, THALASSERY TALUK, KANNUR DISTRICT
PIN - 670 105.**
 - 6. V.PRAVEEN, AGED 49 YEARS
S/O.LATE BALAN, RESIDING AT PARIYATTU HOUSE
P.O.NITTUR, THALASSERY TALUK, KANNUR DISTRICT
PIN - 670 105.**

**BY ADVS.SMT.REKHA C.NAIR
SRI.R.SUDHEER
SRI.P.SAJU
SRI.R.PRATHEESH (ARANMULA)**

RESPONDENT(S)/DEFENDANT/PETITIONER:-:

**V.K BADRULHUDA,, AGED 66 YEARS
S/O.LATE P.M.ABDUL RAHIMAN, BUSINESS, HALEEMA MANZIL
KAYYATH HOUSE, KAYYATH ROAD, P.O.THALASSERY
THALASSERY TALUK, KANNUR DISTRICT - 679 532.**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 12-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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R.C.Rev.No. 8 of 2015

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Dated this the 12th day of January, 2015

O R D E R

ANTONY DOMINIC, J.:

The unsuccessful tenant in R.C.P.No.51/2005 on the file of the Rent Control Court, Thalassery, who also lost in R.C.A.No.52/2011 on the file of the Rent Control Appellate Authority, Thalassery, is the revision petitioner.

2. The respondent-landlords filed Rent Control Petition urging grounds under Sec.11(3), Sec.11(4)(v) and Sec.11(8) of the Rent Control Act. The petition was dismissed by the Rent Control Court. The landlords thereupon filed R.C.A.No.156/2006 before the appellate authority. The appellate authority disposed of the appeal confirming the finding of the rent control court insofar as the grounds under Secs.11(4)(5) and 11(8) are concerned. The bona fide need urged was accepted. But, however, the case was remanded to the Rent Control Court for rendering a finding on the first proviso to Sec.11(3).

3. Accordingly, the matter was examined and the Rent Control Court ordered eviction under Sec.11(3). This order of the Rent Control Court was again challenged by the petitioners in R.C.A.No.156/2006. The R.C.A. having been dismissed, this revision is filed.

4. We heard the counsel for the petitioners and considered the submissions made.

5. As we have already stated, the limited scope of remand was to render a finding on the first proviso to Sec.11(3) of the Act. Therefore, the scope of the appeal and this revision has to be confined to that issue alone. Orders passed by the lower authorities show that the rooms, which were stated to be in the possession of the landlords, were found to be not in existence. This finding is supported by Ext.A-1 series of photographs, Ext.A-2 receipt issued by the photo studio and Ext.A-3 certificate of the Revenue Inspector. The oral evidence PWs 1 to 4 also substantiated this fact. The further contention that certain other rooms were in the custody of the landlords has already been adverted to by the authority. In this context, reliance is placed on Ext.C-2 commissioner report and it has been found that the rooms are in poor condition and are unfit

for any purpose. This therefore shows that the finding of the lower authorities on the first proviso to Sec.11(3) of the Act is perfectly consistent with the evidence available on record. The orders do not call for any interference. Accordingly, the Revision is dismissed.

Sd/-
ANTONY DOMINIC, JUDGE

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge