

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

RCCRev..No. 14 of 2015 ()

RCA NO.75/2014 OF IV ADDITIONAL RENT CONTROL APPELLATE AUTHORITY, THRISSUR
RCP NO.100/2010 OF RENT CONTROL COURT, THRISSUR.

REVISION PETITIONER(S)/APPELLANT/1ST RESPONDENT:

LAKSHMANAN AGED 45 YEARS
S/O.KALYANA SUNDARAM, "MENSHAIRE", CHELLURLAR FLOURS
DAMODARAN & SONS COMPLEX, ROUND WEST
THIRSSUR REPRESENTED BY POWER OF ATTORNEY HOLDER
SMT.C.MEENAKSHI, RESIDING AT 3D 2ND BLOCK
CAPITAL VILLAGE, SRK ASHRAM LANE, PUNKUNNAM
THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S)/RESPONDENTS/PETITIONERS 1 & 3 & RESPONDENTS 2 TO 4:

1. P.D.GOPALAN, AGED 48 YEARS
S/O.P.C.DHAMODHARAN, PRABITHA NIVAS, KAIKAT P.O.
THRISSUR.
2. P.D.VISWANATHAN, AGED 38 YEARS
S/O.P.C.DHAMODHARAN, AISWARYA, THAIKKAD
GURUVAYUR, THRISSUR.
3. RAMAN
S/O.KALYANASUNDHARAN, "MENSHIRE", CHEMBOTTILE LANE
THRISSUR.
4. GANESHAN
S/O.KALYANASUNDHARAM, "MENSHIRE", CHEMBOTTILE LANE
THRISSUR.
5. KRISHNAN
S/O.KALYANASUNDHARAM, "MENSHIRE", CHEMBOTTILE LANE
THRISSUR
6. USHA
W/O.LATE P.D.MOHAN, USHUS, KARIKAT P.O.
THRISSUR DISTRICT.
7. MAHESH
W/O.LATE P.D.MOHAN, USHUS, KARIKAT P.O.
THRISSUR DISTRICT.
8. MADUSHA
S/O.LATE P.D.MOHAN, KARIKAT P.O., THRISSUR DISTRICT.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 27-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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R.C.Rev.No. 14 of 2015

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Dated this the 27th day of January, 2015

O R D E R

ANTONY DOMINIC, J.:

Respondents 1 and 2 and the predecessor of respondents 6 to 8 filed R.C.P.No.100/2010, seeking eviction of the petitioner and respondents 3, 4 and 5, under Sec.11(2)(b) and also seeking fixation of fair rent under Sec.5 of the Rent Control Act. Respondents in the R.C.P. entered appearance. But, however, at a later stage, they chose not to contest the proceedings and, therefore, the court allowed the petition by its order dated 27th March, 2013.

2. Long thereafter, the petitioner, who was the 1st respondent in the R.C.P., filed R.C.A.No.75/2014 along with I.A.No.3459/2014 praying for condonation of delay of 511 days in filing the appeal. The appeal and the I.A. were filed by the 3rd respondent claiming to be the power of attorney holder of the petitioner. That I.A. was dismissed by the Appellate Authority by its order dated 25th of November, 2014 and the R.C.A. was also dismissed as a consequence of the order in the I.A. It is in these

circumstances, this appeal is filed challenging the orders passed by the Appellate Authority.

3. We heard the learned counsel for the petitioner and have considered his submissions.

4. The first reason stated by the Appellate Authority to dismiss the I.A. is that the appeal and the I.A. were filed by the 2nd respondent in the R.C.P., who is also the 3rd respondent in this R.C.R, in his capacity as the power of attorney holder of the petitioner. Insofar as the power of attorney is concerned, in the order the I.A., the Appellate Authority has held thus:

“8. Lakshmanan, the first respondent in RCP 100/2010 has come to file the appeal. Other respondents in the RCP who include Raman, the purported power of attorney of Lakshmanan had not ventured to contest the RCP or come to challenge the impugned order of eviction though they are all residents within the limits of the Rent Control Court. The purported power of attorney executed by Lakshmanan who is a resident (sic) Thailand is not authenticated by any Notary Public or authorised officer in the Consulate. It is seen a attested by a lawyer in British Law Co. Ltd. as a witness. No authentication or seal of a Notary public is there on the document. It is unstamped. It is dated 3.6.2014. It is seen produced before this court on 20.9.2014 that is three months after its execution. Required stamp duty was not paid within the time stipulated under law when it was brought to India. So the purported power of attorney cannot be admitted and no presumption under section 85 of the Evidence Act can be there. So the challenge against the authority of Raman to file petition on behalf of Lakshmanan is well founded. Point is decided against the petitioner.”

5. We have gone through the photocopy of the power of attorney made available by the learned counsel for the revision

petitioner and are satisfied that the entire findings of the Appellate Authority in regard to the invalidity of the power of attorney are well-founded. If that be so, the delay condonation petition could only have been dismissed and consequently, the appeal could also have been dismissed. We therefore do not find any merit in this R.C.R. and the R.C.R. is accordingly dismissed.

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Sd/-
ANTONY DOMINIC, JUDGE
Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge