

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

RCRev..No. 19 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 19/2008 of RENT CONTROL APPELLATE
AUTHORITY (ADDITIONAL DISTRICT JUDGE - II, KALPETTA DATED 11/7/14**

**AGAINST THE ORDER/JUDGMENT IN RCP 1/2007 of RENT CONTROLLER (MUNSIF
MAGISTRATE), SULTHAN BATHERY DATED 28-08-2008**

REVISION PETITIONER(S)/APPELLANT/PETITIONER:

**M M THOAMS AGED 58 YEARS
S/O. MATHEW, MAPPANADIYIL HOUSE, PADICHIRA AMSOM DESOM
BATHERY TALUK, MULLANKOLLY P.O., WAYANAD - 673 579.**

BY ADV. SRI.SRINATH GIRISH

RESPONDENT(S)/RESPONDENTS/RESPONDENTS:

**1. C ABDULLAKUTTY, AGED 68 YEARS
S/O. SAITHOOTTY HAJI, CHELATHOOR HOUSE
IYYAD AMSOM DESOM, P.O.IYYAD, KOYILANDY TALUK
KOZHIKODE DISTRICT - 673 574.**

**2. SURESH
S/O. KESAVAN, NAVEENA AYURVEDIC PHARMACY
ROOM NO. PP 4/445, P.O.PULPALLY, PULPALLY AMSOM DESOM
BATHERY TALUK, WAYANAD - 673 579.**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 06-
02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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R.C.R No. 19 of 2015
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Dated this the 6th day of February, 2015

O R D E R

Antony Dominic, J.

This revision petition is filed by the landlord, who filed RCP No.1/2007, seeking eviction of the respondents invoking the grounds under Section 11(3) and 11(4)(i) of the Kerala Buildings (Lease and Rent Control) Act. The Rent Control Court, Sulthan Bathery dismissed the RCP and that order was confirmed by the Rent Control Appellate Authority, Kalpetta by dismissing RCA 19/2008. It is aggrieved by these orders, this revision is filed.

2. We heard the learned counsel for the petitioner.

3. In so far as the ground under Section 11(3) of the Act is concerned, according to the landlord, he *bona fide* needed the petition schedule premises for the occupation of his dependent son who wanted to start a stationery shop. However, it has come out in evidence that he was undergoing studies in lift technology and that too he was only in the first year with two more years to complete the course. That apart, the evidence also showed that the son had already acquired a passport. Further, the son was not summoned

before the Rent Control Court to swear about his decision to start the business in question. It was in such circumstances that the Rent Control Court declined to accept the ground of *bona fide* need under Section 11(3) of the Act urged by the landlord and which order was confirmed by the Appellate Authority.

4. In so far as the ground under Section 11(4)(i) of the Act urged by the landlord is concerned, the case of the landlord was that the building in question was subleased to the 2nd respondent. The only material that was referred to by the landlord to substantiate this case of his was Ext.C1 commission report, which showed that when the Commissioner visited the scheduled premises, he noticed the presence of the 2nd respondent. However, this contention of the landlord was disputed by the 1st respondent by pointing out that the 2nd respondent was only a salesman in his shop. In the absence of any further evidence in this matter, apart from the above and the oral conflicting version, the Rent Control Court rightly declined to accept this contention and which finding was confirmed by the Appellate Authority also.

5. In the light of the materials that were available before the Rent Control Court and the Appellate Authority, the findings

arrived at by these authorities cannot be said to be faulted justifying interference in a revision filed under Section 20 of the Act.

6. We do not see any merit in this revision.

RCR is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

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PA to Judge