

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

RCRev..No. 23 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 21/2014 of ADDL. DISTRICT COURT - V,
(RENT CONTROL APPELLATE AUTHORITY) KOLLAM DATED 14/11/14**

**AGAINST IA NO.1184/14 IN RCP NO.27/13 OF PRINCIPAL RENT
CONTROLLER/PRINCIPAL MUNSIF, KOLLAM**

REVISION PETITIONER(S)/RESPONDENT/COUNTER PETITIONER:

**SANKARI
W/O.NARAYANAN, LEKSHMI NARAYANA BHAVAN
SAKTHIKULANGARA P.O., KOLLAM-691581.**

**BY ADVS.SRI.B.SURESH KUMAR
SMT.C.B.ANUROOPA**

RESPONDENT(S)/APPELLANT/PETITIONER:

**SOBHA
W/O.LATE RAVIDAS, G-II, KAKESIDE APARTMENT
THEVALLY, KOLLAM 691009.**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 04-
02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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R.C.R No. 23 of 2015
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Dated this the 4th day of February, 2015

O R D E R

Antony Dominic, J.

RCP No.27/13 was filed by the respondent landlady under Section 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act (hereinafter referred to as the Act for short), seeking eviction of the petitioner tenant. That RCP is pending consideration of the Rent Control Court, Kollam.

2. In the said RCP, the landlady filed IA No.1184/14 for an order under Section 12(1) of the Act requiring the tenant to pay the admitted arrears of rent. The tenant contested the IA and contended that rent of ₹1,250/- per day as agreed in the lease deed dated 7/7/12 was paid till 03/4/13 and that for the period subsequent thereof, she has deposited an amount of ₹74,608/-. It was also contended by her that RCP No.12/13 filed by her for fixation of fair rent under Section 5 @ ₹6/- per sq.ft is pending consideration of the Rent Control Court. The Rent Control Court passed order dated 4th of June, 2014 directing the tenant to deposit the arrears of rent @ ₹6/- per sq.ft before court till the termination of the proceedings.

3. Aggrieved by the above order, the landlady filed RCA No.21/14 before the Rent Control Appellate Authority, Kollam. The Appellate Authority by judgment dated 14th of November, 2014 set aside the order passed by the Rent Control Court and the admitted arrears of rent was fixed @ ₹1,250/- per day less electricity charges @ ₹8,000/- bi monthly. It was also directed that the Rent Control Court will give an opportunity to the petitioner to deposit the admitted arrears and proceed with the case in accordance with law. It is challenging this order of the Appellate Authority that this revision is filed.

4. We heard the learned counsel for the petitioner and considered the submissions made.

5. The fact that the tenant has entered into lease deed dated 7/7/12 with the landlady is undisputed. In that lease deed, the rent fixed is ₹1,250/- per day less electricity charges @ ₹8,000/- bi monthly. Even going by the claim of the tenant, this amount was defaulted. It was in such circumstances that the landlady had filed the IA in question. When the agreed rate of rent was ₹1,250/-, the tenant could not have fixed rent at ₹6/- per sq.ft and by making the said payment, could not have pleaded a case of discharge. It was in such circumstances that the Rent Control

Appellate Authority ordered to deposit the rent arrears at the rate as agreed in the lease deed dated 7/7/12. It is true that RCP No.12/13 filed by the tenant under Section 5 of the Act for fixation of fair rent @ ₹6/- per sq.ft is pending consideration of the Rent Control Court. The fact that such a petition has been filed or that the same is pending does not absolve the tenant from paying the rent at the rate agreed at least until a favourable order is obtained by her in the said RCP.

6. We, therefore, do not find any illegality in the order passed by the Appellate Authority justifying interference in this revision.

7. RCR is dismissed.

However, having regard to the filing of this revision and also that it was pending till today, we allow the tenant one month's time from today to comply with the order passed by the Appellate Authority.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**