

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

RCRev..No. 29 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 172/2011 of RENT CONTROL APPELLATE
AUTHORITY/ADDL. DISTRICT JUDGE, - III, THALASSERY DATED 28-11-2014**

**AGAINST THE ORDER/JUDGMENT IN RCP 11/2011 of RENT CONTROL COURT/PRL.
MUNSIFF'S COURT, ,KANNUR DATED 23-08-2011**

REVISION PETITIONER(S)/APPELLANT/RESPONDENT:

**THOTHEN ANEESH AGED 42 YEARS
S/O.LAKSHMANAN, BUSINESS, COOL BAR
ROOM NO.KL 724 A KANNOTHUMCHAL, KANNUR - 670 018**

BY ADV. SRI.SHAMNA

RESPONDENT(S)/RESPONDENTS/PETITIONERS:

- 1. MAKTHOOB E.P., AGED 34 YEARS
S/O.LATE ABDUL MAJEED, RAZEEMA MANZIL
THILANOOR P.O CHONVVA, KANNUR 670 018**
- 2. MANSHOOK E.P., AGED 25 YEARS
S/O.LATE ABDUL MAJEED, RAZEEMA MANZIL
THILANOOR P.O CHONVVA, KANNUR 670 018.**
- 3. MANSOOD E.P., AGED 25 YEARS
S/O.LATE ABDUL MAJEED, RAZEEMA MANZIL
THILANOOR P.O CHONVVA, KANNUR 670 018.**

R1-R3 BY ADV. SRI.V.R.KESAVA KAIMAL

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 30-
03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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R.C.Rev.No. 29 of 2015

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Dated this the 30th day of March, 2015

O R D E R

ANTONY DOMINIC, J.:

The tenant, who was the respondent in R.C.P.No.11/2011 on the file of the Rent Control Court, Kannur, is the revision petitioner. The said petition was filed by the respondents, the landlords, seeking his eviction under Sec.11(3) of the Act on the ground that the 3rd petitioner was unemployed and that he wanted to start a vegetable business. This ground was accepted by the Rent Control Court and by its order dated 23rd August, 2011, the eviction was ordered. The Rent Control Appellate Authority, Thalassery, confirmed the said order by dismissing R.C.A.No.172/2011. It is aggrieved by these orders, the tenant has filed this revision. When the revision came up for consideration before this Court on 9.2.2015, we heard the counsel for the petitioner, but were not inclined to accept the contentions urged on behalf of the tenant. Thereupon, the counsel requested that the petitioner be given reasonable time to surrender vacant possession of the building to

the landlords. Recording the above submission made before us, order dated 9.2.2015 was passed, issuing notice to the landlords. Accordingly, notice has been served on the landlords and we heard their counsel also.

2. As we have already stated, the ground of eviction accepted by the Rent Control Court is one under Sec.11(3). Reading of the orders passed by the Rent Control Court and the Appellate Authority shows that the bona fide need, as contemplated under Sec.11(3) of the Act, that the 3rd petitioner is unemployed and wanted to start a vegetable business was established by adducing evidence. The contention of the petitioner claiming the benefit of second proviso was also not properly established. In such circumstances, we did not find any reason to interfere with the orders impugned.

3. Be that as it may, having regard to the request now made before us for time to surrender vacation, we allow the tenant six months' time from today to surrender vacant possession of the building to the landlords. This shall, however, be subject to the condition that within two weeks from today, the petitioner shall file an affidavit before the execution court with an unconditional

undertaking to surrender vacant possession of the building to the landlords on or before the expiry of the six months' period allowed by us. He shall also continue to pay the rent without default. We also record the submission of the learned counsel for the petitioner that arrears of rent will be paid to the landlords within a period of one month from today.

Subject to the above conditions, the R.C.R. is dismissed.

Sd/-
ANTONY DOMINIC, JUDGE

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge