

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

RCRev..No. 45 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 19/2013 of RENT CONTROL APPELLATE
AUTHORITY (ADDL.DISTRICT JUDGE-I), KALPETTA DATED 31-10-2014**

**AGAINST THE ORDER/JUDGMENT IN RCP 15/2011 of RENT CONTROLLER (MUNSIFF
MAGISTRATE COURT),MANANTHAVADY DATED 30-07-2013**

REVISION PETITIONER(S)/APPELLANT/RESPONDENT:

**SAJI PAUL AGED 43 YEARS
S/O. PAUL RESIDING AT MADAVATH VEEDU
NALLORNADU AMSOM, PULIKKAD DESOM, NALLOORNADU PO
MANANTHAVADY TALUK**

**BY ADVS.SRI.V.V.SURENDRAN
SRI.P.A.HARISH**

RESPONDENT(S)/RESPONDENT/PETITIONER:

**JAISON PETER
S/O PETER, RESIDING AT POALLICHAMKUDY VEEDU
POST MANANTHAVADY
MANANTHAVADY AMSOM ARATTUTHARA DESOM
MANANTHAVADY TALUK, WAYANADU-670 645**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 27-
02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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R.C.R. No. 45 of 2015
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Dated this the 27th day of February, 2015

O R D E R

Antony Dominic, J.

The tenant in RCP No.15/11 on the file of the Rent Control Court, Mananthavady, against whom order of eviction was passed, which was confirmed in RCA No.19/13 by the Rent Control Appellate Authority, Kalpetta, is the revision petitioner. The rent control petition was filed by the respondent herein under Section 11(2)(b) and 11(4)(v) of the Kerala Buildings (Lease and Rent Control) Act. This was allowed by the Rent Control Court and was confirmed by the appellate authority.

2. Before us, the arguments of the learned counsel was confined to the ground under Section 11(4)(v) found against him. The Kerala Buildings (Lease and Rent Control) Act enables the landlord to seek eviction of the tenant under Section 11(4)(v), if there is cessation of occupation for a continuous period of six months or more. In so far as this case is concerned, the case of the landlord is that the tenant is not using the room for a continuous period of more than six months. In support of that case of the

landlord, who was examined as PW1, evidence has been let in. This evidence was corroborated by the evidence of the Advocate commissioner, who was examined as PW2. The report of the Advocate Commissioner shows that there are no traces of use of the room and the room was open at the time of inspection. This, therefore, shows that the claim of the tenant that he was using the room for his ginger business is totally unfounded. It was in such circumstances that the Rent Control Court and the appellate authority have ordered eviction.

3. Before us, the learned counsel for the tenant contended that the number of the room inspected by the Commissioner as stated in the report is different from the number of room indicated in the petition. In other words, he suggested the possibility that the Commissioner would have inspected a different room. However, this contention also cannot be accepted for the reason that even according to the tenant, who was examined as RW1, the building number had changed in the year 2000. This, at best, indicate that the building number shown in the RCP could have been wrong. But, however, as there is no dispute regarding the identity of the building between the

landlord and the tenant and the mistake, if any, has occurred on account of the change of the building number, we do not think this contention raised by the tenant has any force. We are not inclined to interfere with the orders passed by the Rent Control Court and the appellate authority.

RCR is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

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PA to Judge