

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

RRev.No.58 of 2015

AGAINST THE JUDGMENT IN RCA 94/2003 of 1ST ADDL.RENT CONTROL APPELLATE
AUTHORITY (1ST ADDL.DISTRICT COURT), THRISSUR DATED 07-11-13

AGAINST THE ORDER IN RCP 81/1996 of RENT CONTROL COURT (PRL.MUNSIFF
COURT), THRISSUR DATED 01-04-2003

REVISION PETITIONER/2ND APPELLANT/5TH RESPONDENT:

GEORGE LESLY, AGED 60 YEARS
S/O. PAREKATIIL THOMAS, REP. BY
POWER OF ATTORNEY HOLDER
LAIJA MARIA PAUL, W/O. GEORGE LESLY,
FLAT NO.6, SREBALA APARTMENTS,
PARAKKOT LANE WEST, VASANTHA NAGAR,
PATTURAIKKAL, THRISSUR DISTRICT.

BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS/1ST APPELLANT & RESPONDENTS/PETITIONERS AND
RESPONDENTS 3 & 4:

1. JACOB, AGED 56 YEARS, S/O. KALLIKADAN
THOMAKUTTY, KODANNUR VILLAGE, DESOM,
THRISSUR TALUK.
2. OUSEPH, S/O. KALLIKADAN
THOMAKUTTY, KODANNUR VILLAGE,
THRISSUR TALUK. (DIED)
3. CHONGARATH AMMINI AMMA,
KANUTTUKARA DESOM, THRISSUR TALUK.
4. MERCY BOSE, S/O.PAREKATTIL THOMAS,
AYYANTHOLE VILLAGE, DESOM, THRISSUR TALUK.
5. THRESSIAMMA OUSEPH, AGED 68 YEARS,
KALLIKADAN HOUSE, AMMAN KOVIL SOUTH LANE,
POOTHOLE P.O., THRISSUR.

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6. BINOY, S/O.KALLIKADAN OUSEPH,
AMMANKOVIL SOUTH LANE,
POOTHOLE P.O., THRISSUR.
7. ALEX, S/O.KALLIKADAN OUSEPH,
AMMAN KOVIL SOUTH LANE,
POOTHOLE P.O., THRISSUR.
8. DENSON, S/O.KALLIKADAN OUSEPH,
AMMAN KOVIL SOUTH LANE,
POOTHOLE P.O., THRISSUR.
9. RANI GEORGE, AGED 51 YEARS,
S/O.PAREKATTIL THOMAS, AYYANTHOLE VILLAGE,
DESOM, THRISSUR TALUK.

(RESPONDENTS 5 TO 8 ARE THE LEGAL HEIRS OF DECEASED
OUSEPH, THE 2ND RESPONDENT).

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON
20-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 20th day of March, 2015.

ORDER

Antony Dominic, J.

The challenge in this revision is against the order of eviction passed against the petitioner by the Rent Control Court, Thrissur in R.C.P.No.81/1996 which was confirmed in R.C.A.No.94/2003 by the Rent Control Appellate Authority, Thrissur.

2. We heard the counsel for the petitioner and considered the submissions made.

3. The landlord filed the Rent Control Petition seeking eviction of the tenant under Sec. 11(4)(i) and 11 (8) of the Rent Control Act. The Rent Control Court accepted both grounds and ordered eviction. It is this order which confirmed by the appellate authority. When the revision was taken up, the contention raised by the counsel for the petitioner is that the order of the Appellate Authority does not contain the finding as provided under Sec. 11 (10) of the Rent Control Act. According to the counsel this section provides that the Rent

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Control Court should find that the claim of the landlord should be a bonafide one and only if such a finding is entered can the Rent Control Court pass an order under Sec. 11(4) and 11(8) of the Act to put the landlord in possession.

4. We have considered the submissions made. Section 11 (10) of the Rent Control Act reads as follows:

"11(10). The Rent Control Court shall, if it is satisfied that the claim of the landlord under sub-sections (3), (4), (7), or sub-section (8) is bonafide make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Rent Control Court, and if the Court is not so satisfied, it shall make an order rejecting the application:

Provided that, in the case of an application made under sub-section (8), the Rent Control Court shall reject the application if it is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord;

Provided further that the Rent Control Court may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate."

5. A reading of the section shows that the protection of this provision is available only to a tenant. The expression tenant has been defined in Sec. 2 (6) of the Act and a reading of which show that it does not include a sub-tenant. In so far as this case is concerned, concurrent finding of the lower authorities is that the petitioner has inducted a sub-tenant and has parted possession of the property.

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6. Since protection of Sec. 11(10) is available only to a tenant and as the premises in question is in the possession of a sub-tenant, the petitioner cannot complain that the lower authorities have not entered a finding on bonafides as provided under Sec. 11(10) and that therefore the order suffer from any irregularity. We are not satisfied that the orders impugned call for interference.

The revision is accordingly dismissed.

**Sd/-
ANTONY DOMINIC,
Judge.**

**Sd/-
ALEXANDER THOMAS,
Judge.**

Bkn/-

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P.A to Judge