

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 MARCH 2015/6TH CHAITHRA, 1937

RRev..No. 72 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN RCA 99/2011 of RENT CONTROL APPELLATE
AUTHORITY (ADDL.DISTRICT COURT-III), THALASSERY DATED 15-12-2014

AGAINST THE ORDER/JUDGMENT IN RCP 218/2001 of RENT CONTROL
COURT/ADDL. RENT CONTROLLER (ADDITIONAL MUNSIFF),
KANNUR DATED 23-02-2011

REVISION PETITIONER(S)/APPELLANT/RESPONDENT IN RCP/TENANT:

SEVAYI ABDULSALAM AGED 52 YEARS,
S/O POKER HAJI, C.C 1257
(NEW CW 35/B 99) CAMP BAZAR, KANNUR-1

BY ADV. SRI.R.SURENDRAN

RESPONDENT(S)/RESPONDENT/PETITIONER IN RCP/LANDLORD:

VAZHAYIL HASHIM,
S/O ABDUL RAHIMAN KUTTY,
AGED 65 YEARS,
RESIDING AT ZUHARA COTTAGE,
BURNASSERY,
KANNUR 670003.

R1 BY ADV. SRI.K.R..AVINASH (KUNNATH) (CAVEATOR)

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON
27-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
=====

R.C.R. No. 72 of 2015
=====

Dated this the 27th day of March, 2015

O R D E R

Antony Dominic, J.

This revision is filed by the tenant in RCP No.218/2001, which was filed by the respondent landlord, seeking eviction under Section 11(2) (b), 11(3) and 11(4)(v) of the Kerala Buildings (Lease and Rent Control) Act. By its order dated 24/3/2003, the RCP was allowed under Section 11(4)(v). Against the said order, tenant filed RCA No.139/2003 before the Rent Control Appellate Authority. The appellate authority allowed the appeal and dismissed the RCP. However, in RCR No.315/07 filed by the landlord, this Court held that the evidence already on record was insufficient to conclude the issue under Section 11(4)(v) of the Act in favour of the landlord and ordered that the tenant could have examined a neighbouring shop keeper or produce documents substantiating his contention that he was continuously occupying the room. Accordingly, the case was remanded to the Rent Control Court. Though the landlord did not adduce any further evidence, the tenant examined RW2, a neighbouring shop keeper. However, the Rent Control Court declined

to place reliance on the evidence adduced and passed order dated 23rd of February, 2011 ordering eviction under Section 11 (4)(v) of the Act. This was confirmed by the appellate court by dismissing RCA No.99/11. It is challenging these orders, the tenant has filed this revision.

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

3. The first contention raised by the learned counsel is that the Rent Control Court and the appellate authority erred in declining to place reliance on the evidence of RW2. We have considered this submission in the light of the evidence of RW2, a copy of which was made available to us by the learned counsel. In his evidence, this witness had not deposed that the tenant was occupying the room in question during the statutory six months' period provided in Section 11(4)(v) of the Act. Therefore, his evidence is totally vague and insufficient to substantiate the case of the tenant that there was no cessation of occupation as contended by the landlord.

4. Thereafter, the learned counsel raised a contention that there was no valid notification issued under Section 3(1) of

the Act appointing a Munsiff to be the Rent Control Court for the area in question.

5. First of all, the above contention was not raised by the tenant either before the Rent Control Court or before the Rent Control Appellate Authority. Even apart from that, we note that Kannur Municipality is an area which was included in the schedule to the Act, in terms of Section 1(3). In so far as Kannur Municipality and such other scheduled areas are concerned, Government have issued notification vide SRO No.390/73 appointing Munsiffs both Principal and Additional, if any, having jurisdiction over the areas within which the provisions of the Act have been extended, to be the Rent Control Courts for the said areas. This, therefore, means that in respect of areas which are covered by the schedule to the Act and to which the Act has been extended by notification, Munsiffs having jurisdiction of the areas are concerned have been appointed by the Government as a Rent Control Court vide notification referred to above. Therefore, on merits also, this contention does not appeal to us.

6. We, therefore, do not find any irregularity or illegality in the findings of the Rent Control Court and the appellate authority for interference as sought for.

Revision fails and is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge