

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

RRev..No. 147 of 2015 ()

AGAINST THE JUDGMENT IN RCA 168/2011 of RENT CONTROL APPELLATE AUTHORITY,
THRISSUR DATED 31-03-2015

AGAINST THE ORDER IN RCP 28/2004 of RENT CONTROL COURT, KODUNGALLUR
DATED 27-05-2011

REVISION PETITIONER/APPELLANT/RESPONDENT IN RCP:

A.S.KRISHNAN,
S/O.AYYARIL SIVARAMAN, SHOP.NO.KMC XX/72
LOKAMALLESWARAM VILLAGE, KODUNGALLUR, THRISSUR.

BY ADVS.SRI.V.V.ASOKAN (SR.)
SRI.K.I.MAYANKUTTY MATHER
SRI.P.P.RAMACHANDRAN

RESPONDENT/RESPONDENT/PETITIONER IN RCP:

K.M.JOSEPH THIOFRIN,
S/O.KOODALLUR MICHAEL, LOKAMALLESWARAM,
KODUNGALLUR, THRISSUR.

R1 BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 16-11-2015,
ALONG WITH RCR. 148/2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

VPV

**P.N. Ravindran &
Babu Mathew P. Joseph, JJ.**

R.C.R.Nos.147 and 148 of 2015

Dated this the 16th November, 2015

O R D E R

P.N. Ravindran, J.

The petitioners in these revision petitions filed under Section 20 of the Kerala Buildings (Lease and Rent Control) Act, 1965, hereinafter referred to as 'the Act' for short, are the tenants in R.C.P.Nos.28 and 27 of 2004 on the file of the Rent Control Court, Kodungallur. The common respondent is the landlord therein. He had in the petitions filed under section 5 of the Act, prayed for fixing the fair rent in respect of the premises let out on rent to these petitioners. The contract rent payable by the tenants in both the rent control petitions was Rs.500/- per mensem. The landlord had in the petitions filed by him for eviction, prayed that the rent may be fixed at the rate of Rs.5,000/- per mensem from January, 2004 onwards. The tenants opposed the rent control petitions contending inter-alia that the tenanted premises is an old building with tiled roof and wooden ceiling, that the existing rent is fair and reasonable and that the demand for enhancement of rent is not tenable. The rent control court considered the rival contentions and fixed the fair rent in respect of both the tenanted premises at Rs.4,000/- per mensem. The appeals filed by the tenants as R.C.A.Nos.168 and 167 of 2011 before the Rent Control

Appellate Authority, Thrissur were dismissed. Hence, these revision petitions.

2. These revision petitions were admitted and notice ordered to the respondent/landlord on 24.6.2015. Thereafter, on 30.9.2015 an interim order of stay was granted. On 28.10.2015, after hearing learned counsel appearing on both sides, we directed both parties to be present in person before this court at 10.15 a.m. on 30.10.2015 for the purpose of ascertaining whether an out of court settlement is possible as regards the arrears of rent payable based on the fair rent fixed by the rent control court. Accordingly, both parties appeared before us on 30.10.2015. Having regard to the submissions made by them, we referred the parties to mediation and directed them to be present before the Nodal Officer, Ernakulam Mediation Centre (High Court) at 11 a.m. on 4.11.2015. The parties accordingly appeared before the Nodal Officer and mediation talks were held. The dispute between the parties was settled by mediation and a memorandum of agreement dated 4.11.2015 signed by both parties and their respective counsel has been forwarded to this court. The recitals in the memorandum of settlement dated 4.11.2015 entered into between the parties are extracted below:

1. Arrears of rent till 31.12.2015 is calculated and fixed as Rs.3,40,000/- (Rupees Three Lakhs and Forty Thousand

- only) after giving a deduction of Rs.61,500/- (Rupees Sixty One Thousand and Five Hundred only) in each case;
2. The petitioners in both cases shall do the following acts;
 - a. Pay Rs.3,40,000/- each to the respondent in three monthly instalments.
 - b. The 1st instalment of Rs.1,10,000/- (Rupees One Lakh and Ten Thousand only) shall be paid on or before 30.11.2015.
 - c. The 2nd instalment of Rs.1,10,000/- (Rupees One Lakh and Ten Thousand only) shall be paid on or before 30.11.2015.
 - d. The last instalment of Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only) shall be paid on or before 31.1.2016.
 3. RCP 20/2011 and RCP 21/2011 filed by the respondent herein before the Munsiff Court, Kodungallur shall be withdrawn by the respondent when the petitioners herein have paid the arrears of rent agreed in clause No.1 & 2.
 4. If the petitioners herein fail to pay the amount of arrears of rent as agreed above, the respondent herein will proceed with RCP No.20/2011 and RCP 21/2011 pending before Munsiff Court, Kodungallur.
 5. The petitioners shall pay rent to the respondent at the rate of Rs.4,000/- (Rupees Four Thousand only) per month as ordered by the Rent Control Court in RCP.27/2004 and RCP 28/2004 and confirmed by the appellate authority from 2016 January onwards.
 6. The amount deposited by the petitioners before the Rent

Control Court can be withdrawn by the respondent landlord and the petitioners herein will not raise any objection in withdrawing the same by the landlord.”

3. The terms of the settlement disclose that the tenants have agreed to pay fair rent at the rate of Rs.4,000/- per mensem with effect from 1.1.2004 in instalments and that the landlord has agreed to give a lumpsum deduction of Rs.61,500/- towards past arrears payable from 1.1.2004 onwards. Each of the petitioners in these revision petitions have agreed to pay to the respondent/landlord the sum of Rs.3,40,000/- being the arrears of rent calculated at the rate of Rs.4,000/- per mensem for the period commencing from 1.1.2004 and ending with 31.12.2015, after deducting the sum of Rs.61,500/- agreed to be waived by the landlord, in three instalments. The first instalment of Rs.1,10,000/- is to be paid on or before 30.11.2015, the second instalment of Rs.1,10,000/- is to be paid on or before 31.12.2015 and the last instalment of Rs.1,20,000/- is to be paid on or before 31.1.2016. The parties have also agreed that as and when the tenants discharge the arrears of rent payable for the period commencing from 1.1.2004 in the manner indicated above, the landlord will withdraw R.C.P.Nos.20 and 21 of 2011 filed by him in the Rent Control Court, Kodungallur. The parties have also agreed that in the event of default on the part of the tenants in not paying the

arrears of rent in terms of the aforesaid agreement, it will be open to the landlord to proceed with the said rent control petitions. The tenants have further agreed that they will pay rent at the rate of Rs.4,000/- per mensem from January, 2016 onwards.

4. When these revision petitions came up for hearing today, learned counsel appearing for the petitioners/tenants submitted that each of the tenants have deposited the sum of Rs.1,00,000/- before the Rent Control Court, Kodungallur on 13.10.2015 as directed by this court while granting an interim order of stay, that the tenants have no objection in the said amount being withdrawn by the landlord for the reason that it was after giving credit to the said deposit that the balance amount payable by each of them was arrived at.

In such circumstances, in the light of the memorandum of settlement and in view of the submissions made at the Bar, we dispose of these revision petitions in the following terms:

- i. The petitioners/tenants shall on or before 30.11.2015 deposit in the rent control court for payment to the landlord, the sum of Rs.1,10,000/- each, on or before 30.11.2015, a further sum of Rs.1,10,000/- each, on or before 31.12.2015 and a further sum of Rs.1,20,000/- each, on or before 31.1.2016.
- ii. Upon such deposits being made, it will be open to the landlord

to withdraw the amounts deposited. It will be open to the landlord to withdraw in addition to the aforesaid amounts, the sum of Rs.1,00,000/- deposited by the tenants in each of the cases, on 13.10.2015, pursuant to the interim order passed by this court in these revision petitions.

- iii. In view of the compromise arrived at between the parties regarding payment of rent for the period commencing from 1.1.2004 and ending with 31.12.105, we also deem it appropriate to stay the trial of R.C.P. Nos.20 and 21 of 2011 on the file of the Rent Control Court, Kodungallur until 31.1.2016.
- iv. In the event of the tenants depositing the amounts referred to above within the time limit agreed upon between the parties, the landlord shall take steps to withdraw R.C.P. Nos.20 and 21 of 2011 on the file of the Rent Control Court, Kodungallur.
- v. Needless to say, in the event of the tenants failing to deposit the above mentioned amounts in the manner indicated above, it will be open to the landlord to prosecute R.C.P. Nos.20 and 21 of 2011.
- vi. We also record the understanding arrived at between the parties that each of the tenants will pay to the landlord, rent at the rate of Rs.4,000/- per mensem for the period commencing

from 1.1.2016.

vii.The parties shall suffer their respective costs.

(P.N. Ravindran, Judge.)

(Babu Mathew P. Joseph, Judge.)

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