

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

RCRev..No. 232 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 35/2013 of ADDL. RENT CONTROL APPELLATE
AUTHORITY-I, KOTTAYAM DATED 31-07-2015**

**AGAINST THE ORDER/JUDGMENT IN RCOP 3/2013 of RENT CONTROL COURT,
KOTTAYAM DATED 25-06-2013**

REVISION PETITIONERS/APPELLANTS/RESPONDENTS:

- 1. V.O.JOHN @ DR. V.O.JOHN, AGED 58 YEARS,
S/O.SIVANADAN, KOCHUPARAMBIL HOUSE, THIRUNAKKARA KARA,
KOTTAYAM.**
- 2. SANTHA JOHN, AGED 52 YEARS,
W/O.JOHN, KOCHUPARAMBIL HOUSE, THIRUNAKKARA KARA
KOTTAYAM.**

**BY ADVS.SRI.V.B.PREMACHANDRAN
SRI.S.MADHAVAN NAIR**

RESPONDENTS/RESPONDENTS/PETITIONERS:

- 1. ABRAHAM M.PHILIP, AGED 37 YEARS
S/O.JACOB, MALIECKAL KIZHAKKEALLATHU HOUSE, OLD MARKET,
KOTTAYAM KARA, KOTTAYAM,
REPRESENTED BY POWER OF ATTORNEY HOLDER BINO P.KURIAN,
AGED 45 YEARS, S/O.GEORGE, PUTHUPARAMBIL, MANARCADU KARA
MANARCADU VILLAGE, KOTTAYAM DISTRICT - 686 019.**
- 2. SUNITHA FAZAL, AGED 35 YEARS
D/O.MUHAMMADALI SAHIB, SAHIB MANZIL, VELOOR KARA
THIRUVATHUKKAL P.O., VELOOR VILLAGE, KOTTAYAM DISTRICT - 686 003.**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON
29-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

VPV

P.N.RAVINDRAN & BABU MATHEW P. JOSEPH, JJ.

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R.C.R.No.232 of 2015

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Dated this the 29th day of September, 2015

ORDER

P.N.Ravindran, J.

The petitioners are respondents 1 and 2 in R.C.(O.P.)No.3 of 2013 on the file of the Rent Control Court, Kottayam. The first respondent is the petitioner and the second respondent is the third respondent therein. The first respondent instituted R.C.(O.P.)No.3 of 2013 under section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as "the Act" for short) praying for an order evicting the petitioners and the second respondent herein from the petition schedule building. He contended that he bonafide needs the petition schedule building which is a residential building for his use when he comes from United Kingdom, where he is presently employed, every year on vacation. The petitioners herein resisted the application by filing written objections. The second respondent herein who was the third respondent in the rent control petition did not file any objections.

2. The rent control court considered the rival contentions and the evidence on record and held that the need put forward is bonafide.

The contention of the petitioners that they are entitled to the protection of the second proviso to section 11(3) of the Act was repelled. An order for eviction was accordingly passed directing the tenants to surrender vacant possession of the petition schedule building within three months from the date of the order. The third respondent before the rent control court namely the second respondent herein did not challenge that order. The petitioners herein filed an appeal as R.C.A.No.35 of 2013 on the file of the Additional Rent Control Appellate Authority-I, Kottayam. By judgment delivered on 31.7.2015, the appellate authority dismissed the appeal. Hence this revision petition.

3. We heard Sri.V.B.Premachandran, learned counsel appearing for the petitioners. We have also gone through the impugned judgment/order. After hearing learned counsel appearing for the petitioners and after going through the materials presently on record, we are not satisfied that the impugned judgment/order merits interference. The rent control court and the appellate authority have, on an analysis of the pleadings and the evidence on record concurrently held that the need put forward by the landlord is bonafide. They have also repelled the contention of the tenant of a residential building that he is entitled to the protection of the second

proviso to section 11(3) of the Act. In our considered opinion, the impugned judgment/order do not suffer from any infirmity or illegality warranting interference in exercise of this court's revisional jurisdiction under section 20 of the Act.

4. We accordingly hold that there is no merit in the instant revision petition. It fails and is dismissed. After the revision petition was dismissed, learned counsel appearing for the petitioners sought six months' time to surrender vacant possession of the petition schedule building. Having regard to the fact that the petitioners are residing in the petition schedule building, we deem it appropriate to grant them three months' time from today to surrender vacant possession of the petition schedule building subject to the condition that the first petitioner shall within two weeks from today file an undertaking in the form of an affidavit in the rent control court, undertaking to surrender vacant possession of the petition schedule building to the landlord within three months from today. The first petitioner shall also undertake that he or the second petitioner will not induct strangers into possession of the petition schedule building or commit acts of waste therein. They shall also undertake to deposit the rent in arrears and to continue to pay the rent till the date of surrender. Needless to say, in the event of failure on the part of the

petitioners in filing an affidavit within the time limit stipulated above, it will be open to the landlord to forthwith execute the order for eviction. No costs.

Sd/-

**P.N.RAVINDRAN
JUDGE**

Sd/-

**BABU MATHEW P. JOSEPH
JUDGE**

/true copy/

P.A. To Judge

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