

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 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

RCRev..No. 271 of 2015 ()

AGAINST THE ORDER IN RCP 20/2012 of RENT CONTROL COURT, PONNANI DATED
17-06-2013
AGAINST THE JUDGMENT IN RCA 20/2013 of RENT CONTROL APPELLATE AUTHORITY,
TIRUR DATED 27.10.2014.

REVISION PETITIONER/APPELLANT/RESPONDENT:

C.T.JOSE, AGED 62 YEARS,
S/O.CHIRAYATH MANHIYIL THOMAS, E.P.VIII/436,
GOPURATHINKAL JEWELLERY, C.V.JUNCTION, PONNANI,
MALAPPURAM.

BY ADV. SRI.C.AJITH KUMAR

RESPONDENT/RESPONDENT/PETITIONER:

ANIL KUMAR, AGED 50 YEARS,
S/O.AMBADI CHEMBARA KUTTAN, EZHUVATHIRUTHI AMSOM,
ERIKKAMANNA DESOM, PONNANI, MALAPPURAM.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON
02-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

VPV

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

R.C.R.No.271 of 2015

Dated this the 2nd November, 2015

ORDER

P.N. Ravindran, J.

The petitioner is the tenant in R.C.P.No.20 of 2012 on the file of the Rent Control Court, Ponnani, a petition for eviction filed by the respondent/landlord under section 11(8) of the Kerala Buildings (Lease & Rent Control) Act, 1965, hereinafter referred to as 'the Act' for short. After considering the rival contentions, the rent control court held that the need put forward is bonafide. The rent control court also held that the mere fact that the tenant has expended money to instal a strong room is not a ground which disentitles the landlord from getting an order of eviction. The rent control court also held that the further fact that the tenant has spent some amount for beautification of the shop room cannot be a ground which can be relied on to contend that it is a hardship which will outweigh the benefit which the landlord will derive from getting the extra space. An order of eviction was accordingly passed directing the tenant to surrender vacant possession of the petition schedule building within six months from the date of the

order, viz. 17.6.2013. Challenging that order, the tenant filed R.C.A.No.20 of 2013 on the file of the Rent Control Appellate Authority, Tirur. By judgment delivered on 27.10.2014 the appellate authority concurred with the rent control court and dismissed the appeal. However, the appellate authority granted to the tenant time till 28.11.2015 to surrender vacant possession of the petition schedule building to the landlord subject to the condition that he shall file an undertaking in the form of an affidavit within three months and also deposit the arrears of rent, if any, within one month from 27.10.2014 and to continue to pay rent till the date of surrender. The instant revision petition was filed on 20.10.2015, a month and seven days before the expiry of the period of one year granted by the appellate authority.

2. When this revision petition came up for hearing today, Sri.C.Ajith Kumar, learned counsel appearing for the petitioner submitted that the tenant may be granted time till 31.3.2016 to surrender vacant possession of the petition schedule building to the landlord. The learned counsel submitted that the tenant is on the look out for an alternate accommodation to shift his business, that he could not find out another alternate accommodation within the time granted by the rent control appellate authority and therefore, as the tenant is running a jewellery business in the petition schedule building, time till

31.03.2016 may be granted. Learned counsel appearing for the landlord very fairly did not oppose the said request but submitted that such time should be granted only in the event of the tenant filing an undertaking in the form of an affidavit in the rent control court within two weeks from today. After considering the submissions made at the Bar, we are satisfied that the petitioner/tenant who is running a jewellery business in the petition schedule shop room can be given time till 31.03.2016 to surrender vacant possession of the petition schedule building to the landlord.

We accordingly dispose of the revision petition with the following directions:

- i. The petitioner/tenant 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 respondent/landlord on 31.03.2016.
- ii. The tenant shall deposit or pay to the landlord the arrears of rent if any within three weeks from today and undertake in the affidavit to be filed as directed above, that he will continue to pay rent till the date of surrender.
- iii. The tenant shall also undertake that he will not induct third parties into possession of the petition schedule building or commit acts of waste therein.

- iv. In the event of failure on the part of the petitioner/tenant to file an affidavit within the time limit stipulated above, it will be open to the landlord to forthwith execute the order of eviction.

Sd/-

**P.N.RAVINDRAN
JUDGE**

Sd/-

**BABU MATHEW P. JOSEPH
JUDGE**

/true copy/

P.A.to Judge

kav/vpv