

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

RCRev..No. 348 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN RCA 191/2012 of RENT CONTROL APPELLATE
AUTHORITY, THALASSERY DATED 28-09-2015

AGAINST THE ORDER/JUDGMENT IN RCP 188/2011 of RENT CONTRL COURT, KANNUR
DATED 22-08-2012

REVISION PETITIONER(S):2ND APPELLANT

LINCY EARNEST, D/O. MITTILDA, HOUSE NO.53C,
P.O. BURNACHERRY, KANNUR-670001.

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH
SRI.E.MOHAMMED SHAFI
SRI.PRAJIT RATNAKARAN

RESPONDENT(S):RESPONDENTS AND PETITIONER AND RESPONDENTS 2 TO 5

1. PALLIKANDY ZAREENA, D/O. AHAMED,
AGED 52 YEARS, THANA, KANNUR,
THROUGH HER POWER OF ATTORNEY HOLDER PALLIKANDY ABDUL AZEEZ,
S/O. AHAMMED, AGED 41 YEARS, THANA, KANNUR-670012.
2. CELINA LINCY, W/O. LINCY EARNEST, AGED 48 YEARS,
HOUSE NO.53C, P.O. BURNACHERRY, KANNUR-670001.
3. SHERIN EARNEST, D/O. EARNEST, DO.
4. CYRIL EARNEST, S/O. DO. DO.
5. BINDU EARNEST, D/O. DO. DO.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON
23-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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

R.C.R.No.348 of 2015

Dated this the 23rd December, 2015

O R D E R

P.N. Ravindran, J.

The petitioner is the tenant in R.C.P.No.188 of 2011 on the file of the Rent Control Court, Kannur, a petition filed by the first respondent/landlord under section 5 of the Kerala Buildings (Lease and Rent Control) Act, 1965, hereinafter referred to as 'the Act' for short, to have the fair rent fixed in respect of a residential building situate in Kannur town. The landlord had in the petition for eviction averred that the contract rent is only Rs.8/- per mensem, that the building is situate in Kannur town, that it has an area of approximately 370 square metres, that it is situate in a residential area, that it is a residential building with all facilities and that banks, schools, colleges, super markets and margin free shops as also a temple, a church, a mosque etc. are situate near the petition schedule premises, that it is situate very close to the Kannur Railway Station and that on a modest estimate they are entitled to receive rent at the rate of Rs.6,500/- per mensem.

2. Upon receipt of notice, the tenants entered appearance and filed a counter statement. They contended that the petition schedule building is a very old building, that the area where the petition

schedule building is situate, is not good for habitation, that the residents of the locality are downtrodden and poor, that the building lacks facilities, that it has no courtyard or kitchenyard, that it abuts the main public lane, that there is no public water connection and that there is also no sanitation facility.

3. The rent control court, after considering the rival contentions, fixed the fair rent payable in respect of the petition schedule building at the rate of Rs.2,000/- per mensem. The tenants carried the matter in appeal by filing R.C.A.No.191 of 2012 on the file of the Rent Control Appellate Authority, Thrissur. By judgment delivered on 28.9.2015 the appellate authority concurred with the rent control court and dismissed the appeal. The tenants have, aggrieved thereby, filed this revision petition.

4. We heard Shri K.R.Avinash, learned counsel appealing for the petitioners. We have also gone through the impugned judgment/order. The fact that the rent presently being paid by the tenants is Rs.8/- per mensem is not in dispute. The building is situate in a very important locality in Kannur town. The rent which is now being paid was fixed 40 years back. The rent control court and the appellate authority have, having regard to the location and lie of the building, fixed the fair rent payable at Rs.2,000/- per mensem, notwithstanding the fact that it

lacks a latrine and public water connection. The rent control court and the appellate authority have also held that if the tenants have a grievance that the landlord has not provided latrine facility, it is for them to move the Accommodation Controller, that their conduct shows that they are satisfied with the facilities available and merely for the reason that the building lacks facilities, it cannot be said that the rent at the rate of Rs.8/- per mensem which was fixed 40 years back, is the market rent or fair rent of the building. If as contended by the tenants, the building lacks facilities, the option is certainly available to them to vacate it and shift to another premises where they can live in luxury. The landlord who is receiving rent at the rate of Rs.8/- per mensem, cannot in our opinion, be called upon to provide modern toilet facilities and also piped water supply.

The revision petition is, in our opinion, without merit. It fails and is accordingly dismissed.

(P.N. Ravindran, Judge.)

(Babu Mathew P.Joseph, Judge.)

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