

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

OP (RC).No. 171 of 2014 (O)

(RCP 5/13 OF MUNSIFF COURT, CHALAKUDY)

PETITIONER(S):

**VIJI VARGHESE AGED 44 YEARS
S/O.KANICHAYI VARGHESE
ANALLUR VILLAGE DESOM MUKUNDAPURAM TALUK**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

**1. MALABAR PIPES & CERAMICS (P) LTD.
WEST KORATTY DESOM
KALLUR VADAKUMURY VILLAGE MUKUNDAPURAM TALUK
REP.BY MANAGING DIRECTOR P.IJOSEPH
S/O.PUTHEN VEETIL ITTOOP, CHALAKUDY DESOM
KIZHAKE CHALAKUDY VILLAGE
MUKUNDAPURAM TALUK 680 001**

**2. JASMIN GEORGE
S/O.THEKKETHALA GEORGE, KORATTY DESOM
MURINGOOR THEKUMURY VILLAGE
MUKUNDAPURAM TALUK 680 001.**

R1 BY ADV. SRI.RAJESH THOMAS

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 171 of 2014 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - A TRUE COPY OF THE RENT CONTROL PETITION BEARING NO.5 OF 2013
DATED 26-6-2013 ON THE FILE OF THE RENT CONTROL COURT, CHALAKUDY

EXT.P2 - A TRUE COPY OF THE ORDER PASSED BY THE RENT CONTROL COURT
CHALAKUDY IN RCP NO.5 OF 2013 DATED 19-11-2013

EXT.P3 - A TRUE COPY OF THE ORDER PASSED BY THE RENT CONTROL APPELLATE
AUTHORITY THRISSUR DATED 11-3-2014

EXT.P4 - A TRUE COPY OF THE JUDGMENT IN OPRC NO.68 OF 2014 DATED 18-8-2014
OF THIS HON'BLE COURT.

EXT.P5 - A TRUE COPY OF THE ORDER PASSED IN IA NO.3452 OF 2014 IN RCA NO.94
OF 2013 DATED 13-10-2014 ON THE FILE OF THE RENT CONTROL APPELLATE
AUTHORITY, THRISSUR

RESPONDENT(S)' EXHIBITS NIL

//True Copy//

PA TO JUDGE

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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O.P. (RC) No. 171 of 2014
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Dated this the 19th day of January, 2015

J U D G M E N T

Antony Dominic, J.

Heard the learned counsel for the petitioner and the learned counsel for both the respondents.

2. The tenant in RCP No.5/13, which was filed by the 1st respondent landlord, is the revision petitioner. RCP was filed by the 1st respondent against the petitioner and the 2nd respondent seeking eviction under Section 11(2)(b) and 11(3) of Kerala Building (Lease and Rent Control) Act. The Rent Control Court passed order under Section 12 requiring the tenants to clear the admitted arrears. That was not complied with and as a result, by Ext.P2, their defence was struck off and the petition itself was allowed. This order of the Rent Control Court was challenged by the petitioner by filing RCA No.94/2013 before the Rent Control Appellate Authority, Thrissur. In the appeal, the appellate authority passed Ext.P3 order of stay of execution subject to the petitioner paying ₹6,00,000/- within one month and continuing to pay ₹1,00,000/- each towards rent per month. That order was not complied with. Subsequently, the 1st

respondent filed IA No.3452/2014 to strike off the defence of the tenant for non compliance of Ext.P3 order. That was allowed and the appeal was ultimately dismissed. This is the background in which this OP is filed.

3. When the OP came up for consideration before this Court on 6/1/15, learned counsel for the petitioner expressed his readiness to comply with the orders and clear the arrears. It was taking note of the said submission that this Court issued notice to the respondents. Subsequently and till date, the petitioner has in addition to ₹1.5 lakhs already deposited in the Rent Control Court, paid ₹9 lakhs to the learned counsel for the 1st respondent appearing before this Court and the receipt of the amount has been acknowledged by the learned counsel as well. This, therefore, means that, so far, the 1st respondent has realised ₹10.5 lakhs from the petitioner. In any case, even going by estimation of the amount due under Ext.P3, by the end of January, 2015, at least an amount of ₹14,00,000/- will be due. If that be so, even giving credit to ₹10.5 lakhs already realised, the balance due from the petitioner would be ₹3,50,000/-. Petitioner undertakes to

pay to the landlord ₹3,50,000/- before 6th of February, 2015. This submission is recorded.

4. Taking note of the above and subject to the petitioner paying the balance amount of ₹3,50,000/- (Rupees Three lakhs fifty thousand only) on or before 6/2/15 and continuing to pay ₹1,00,000/- (Rupees One lakh only) as ordered in Ext.P3, it is ordered that Exts.P2 and P5 orders will stand stayed, the case will be remitted to the Rent Control Court, Chalakkudy and the Court shall adjudicate RCP No.5/13 on merits and pass appropriate orders in accordance with law.

OP(RC) is disposed of as above.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge