

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

RCRev..No. 37 of 2014 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 24/2006 of 1ST ADDL.RENT CONTROL
APPELLATE AUTHORITY, THRISSUR DATED 25-07-2013**

**AGAINST THE ORDER/JUDGMENT IN RCP 2/2004 of MUNSIFF COURT,CHAVAKKAD
DATED 21-12-2005**

REVISION PETITIONER(S)/APPELLANT/RESPONDENT:

**THULASIDEVI, AGED 50 YEARS,
D/O.PADMAVATHI AMMA, PARANGOTH HOUSE,
VENKITANGU DESOM
CHAVAKKAD TALUK NOW RESIDING AT ANNAKARA AMSOM
PENAKAM DESOM, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA
SRI.K.D.SREEVISAKH**

RESPONDENT(S)/RESPONDENT/PETITIONER:

**VINODAN, AGED 61 YEARS,
S/O.THANDIATH PARAN, MULLASSERY AMSOM & DESOM
CHAVAKKAD TALUK, THRISSUR DISTRICT - 680001.**

R1 BY ADV. SRI.RAJIT

**THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 19-03-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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R.C.R. No. 37 of 2014
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Dated this the 19th day of March, 2015

O R D E R

Antony Dominic, J.

The tenant, against whom the respondent landlord filed RCP No.2/04 before the Rent Control Court, Chavakkad under Section 11 (2)(b), 11(3) and 11(4) of the Kerala Buildings (Lease and Rent Control) Act, is the petitioner. The Rent Control Court allowed the petition and that order was challenged by the tenant in RCA No.24/06 before the Rent Control Appellate Authority, Thrissur. That was dismissed by the appellate authority and that order was challenged before this Court in RCR No.262/10. By order dated 16th of July, 2012, this Court disposed of the revision directing the appellate authority to reappraise the entire materials on record and decide the following two points;

- “1. Whether there exists the landlord-tenant relationship between the parties to the RCP and whether the denial of the landlord's title raised by the respondent is a bona fide one?*
- 2. Whether orders of eviction passed by the Rent Control Court are sustainable on the basis of the evidence available on record?”*

2. Accordingly, the matter was reconsidered by the Rent Control Appellate Authority, which, by its judgment dated 25th of July, 2013, dismissed the appeal. It is aggrieved by this proceedings, the tenant has filed this revision.

3. We heard the learned counsel for the petitioner and the learned counsel for the respondent landlord.

4. The contention raised by the learned counsel for the petitioner is that in view of the directions of this Court in the judgment dated 16th of July, 2012 disposing of RCR No.262/10, the Rent Control Appellate Authority was obliged to consider whether there existed a landlord-tenant relationship between the parties and whether the denial of landlord's title by the tenant is a *bona fide* one. Now the complaint of the counsel is that the latter part of the direction requiring the appellate authority to consider the *bona fides* of the dispute was not complied with.

5. Reading of the judgment of the appellate authority shows that Padmavathy Amma was the original landlord and that she mortgaged the property to Yogakshema Saba by Ext.A15. The

mortgagee released the property to Padmavathy Amma by Ext.A16 dated 27/9/2000. It is also found that, thereafter, on 30/9/2000, Smt.Padmavathy Amma alienated the property to the landlord by Ext.A1 and that on 2/10/2000, Ext.A11 rent deed was executed by the husband of the tenant, who occupied the building in question on lease for a period of two months. It is also found that it was thereafter that by Ext.A12 executed on 29/11/2000, the tenant occupied the premises in question on rent. It was primarily on this basis that the Rent Control Appellate Authority found the existence of landlord-tenant relationship between the respondent and the petitioner.

6. In so far as the *bona fides* of the title dispute involved is concerned, first of all, from the findings of the Rent Control Appellate Authority, it is clear that, by Ext.A1, the title of the property has been acquired by the landlord. It is true that the tenant has raised a contention that Ext.A1 was not a conveyance as such, but was only a *viswasatheerpu*. This contention was raised by her on the basis that the landlord had agreed to re-

convey the property to Padmavathy Amma on her discharging the liability due to him. However, we find that such a claim now made by the tenant is not substantiated by any document. Though at the time when the rent control petition was filed, Padmavathy Amma was alive and she expired only on 7/9/2004. She was not examined in the case.

7. Yet another aspect of the matter is that Padmavathy Amma during her lifetime did not approach any court of law asserting her entitlement over the property conveyed to the landlord by Ext.A1 title deed. Added to all this is the further fact that when the landlord was examined as PW1 before the Rent Control Court, though he was cross examined on behalf of the tenant, no question or suggestion was put to him doubting the genuineness of Ext.A1. We are fully satisfied that the denial of title by the tenant has no merit or *bona fides*. Therefore, though the order passed by the Rent Control Appellate Authority does not show that a specific finding on this aspect has been recorded, in the facts and in the nature of evidence is available on record, we

are not satisfied that there is any merit in this contention.

8. We, therefore, do not find any reason to interfere with the orders passed by the lower authorities.

RCR is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge