

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

RCRev..No. 162 of 2014 ()

AGAINST THE JUDGMENT IN RCA 20/2012 of II ADDL. RENT CONTROL APPELLATE
AUTHORITY (DISTRICT & SESSIONS COURT), KOLLAM DATED 26-11-2013

AGAINST THE ORDER/JUDGMENT IN RCOP 5/2011 of MUNSIFF COURT,
KARUNAGAPPALLY DATED 13-06-2012

PETITIONER/RESPONDENT/COUNTER PETITIONER:

RAJAN PILLAI AGED 52 YEARS
S/O. THANKAPPAN PILLAI, RESIDING AT VISHNU BHAVAN
THEKKUM MURI KIZHAKKEKKARA MURI, THAZHAVA VILLAGE
S.R.P. MARKET P.O.

BY ADV. SRI.J.OM PRAKASH

RESPONDENT/APPELLANT/PETITIONER:

RADHAKRISHNAN UNNITHAN, AGED 60 YEARS
S/O. RAGHAVAKURUP, RESIDING AT THEJAS
PAVUNBATHEKKUM MURI, PAVUMBA VILLAGE, PAVUMBA P.O.

R1 BY ADV. SRI.K.SASIKUMAR

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

R.C.R.No.162 of 2014

Dated this the 31st day of March, 2015

O R D E R

Antony Dominic, J.

1.The respondent landlord filed RC(OP).5/11 in the Rent Control Court, Karunagappally seeking eviction of the petitioner under section 11(3) of the Kerala Buildings (Lease & Rent Control) Act, 1965. The Rent Control Court, by its order dated 13.6.2012, dismissed the petition. In RCA.20/12 filed by the landlord before the Rent Control Appellate Authority, Kollam, judgment dated 26.11.2013 was passed allowing the appeal and permitting the landlord to get vacant possession of the scheduled building. It is aggrieved by this judgment, the tenant has filed this revision.

2.We heard learned counsel for the petitioner and also learned counsel for the respondent and have considered the submissions made by both sides.

3.The landlord-tenant relationship is not disputed before us. Admittedly, the area of the plot in

question is only 24 sq.m. and the need projected by the landlord is to re-construct the building and to occupy the same for his own bonafide need of starting a business, along with his wife. The main contention raised by the tenant before us is that considering the extent of the land involved and the provisions of the Kerala Panchayat Building Rules, 2011, it is not possible for the landlord to construct a building as proposed by him and that therefore, the need projected by him is only a ruse to get the tenant vacated. However, this contention is disputed by the learned counsel for the respondent, relying on a plan which was produced before the Rent Control Court as Exts.A5 and A6 and Ext.A9 no objection certificate issued by Thazhava Grama Panchayat which was produced before the Appellate Authority.

4.In our view, this concern now raised by the learned counsel for the tenant can be addressed by issuing appropriate directions to the execution court. It is not the case of even the landlord that he can undertake construction without an approved plan or a

building permit from the local authority. Such approval can only be in terms of the Kerala Panchayat Building Rules, 2011 also. Therefore, if he produces such approved plan and building permit obtained from the appropriate authority, this concern raised by the learned counsel for the petitioner tenant will stand addressed.

5. In the aforesaid circumstances, we direct that the execution court shall, before ordering delivery of the scheduled building to the landlord as directed by the Appellate Authority, ensure that the landlord has produced an approved plan and a building permit obtained by him in terms of the provisions contained in the Building Rules mentioned above. However, we clarify that the Panchayat shall not take the direction in this order as obliging it to allow the request of the landlord to grant a permit but will consider any such application, if made, only in accordance with law.

with the aforesaid directions and confirming the order passed by the Rent Control Appellate Authority, this revision petition is disposed of.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
ALEXANDER THOMAS, Judge.

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/True copy/

PS to Judge