

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

RCRev..No. 189 of 2014 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 23/2012 of II ADDL.DISTRICT COURT, &
RENT CONTROL APPELLATE AUTHORITY, ERNAKULAM DATED 09-07-2013**

**AGAINST THE ORDER/JUDGMENT IN RCP 35/2008 of III ADDL.MUNSIFF & RENT
CONTROL COURT, ERNAKULAM DATED 09-12-2011**

REVISION PETITIONER(S)/APPELLANT/RESPONDENT:

**M. ABDUL JABBAR AGED 57 YEARS
S/O.E.K. KUNHAHAMMED, PROPRIETOR, HOTEL PARK ROYALE
OPP. COCHIN HOSPITAL, PALLIMUKKU, M.G. ROAD
ERNAKULAM.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

RESPONDENT(S)/RESPONDENTS/PETITIONERS:

- 1. MR.MOHAMMED AMEEN, AGED 33 YEARS,
S/O. SULAIMAN ABOOBACKER SAIT, JUWAIIRA
DOOR NO. 40/9087, OPP. YMCA, CHITTOOR ROAD
ERNAKULAM-35
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER AND FATHER MR.
SULAIMAN ABOOBACKER SAIT S/O. LATE ABOOBACKER ABDULLA SAIT
RESIDING AT JUWAIIRA, DOOR NO. 40/9087, OPP. YMCA
CHITTOOR ROAD, ERNAKULAM-35.**
- 2. MOHAMMED ELYAS, AGED 31 YEARS,
S/O. SULAIMAN ABOOBACKER SAIT
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER AND FATHER
MR.SULAIMAN ABOOBACKER SAIT
RESIDING AT JUWAIIRA, DOOR NO. 40/9087, OPP. YMCA
CHITTOOR ROAD, ERNAKULAM-35.**

**R1-R2 BY ADV. SRI.BABU KARUKAPADATH
R1-R2 BY ADV. SMT.M.A.VAHEEDA BABU
R1-R2 BY ADV. SRI.K.A.NOUSHAD
R1-R2 BY ADV. SRI.P.U.VINOD KUMAR
R1-R2 BY ADV. SRI.KANDAMPULLY RAHUL
R1-R2 BY ADV. SRI.MITHUN BABY JOHN
R1-R2 BY ADV. SRI.J.RAMKUMAR**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 25-
03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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R.C.R. No. 189 of 2014
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Dated this the 25th day of March, 2015

O R D E R

Antony Dominic, J.

The tenant, against whom the respondents filed RCP No.35/08 on the file of the Rent Control Court, Ernakulam seeking eviction under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, which was allowed by order dated 9/12/11 and confirmed by the appellate court in RCA No.23/12, is the revision petitioner.

2. We heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3. The contention raised by the learned counsel for the petitioner is that Section 11(3) of the Act which enables the landlord to seek eviction of the tenant, if he *bona fide* needs the building for his own occupation or the occupation of his dependents, is the ground urged by the landlords against him. It is stated that the landlords are two brothers who are businessmen settled in middle east having business interest in African countries and had married South African citizens. It is stated that considering the above background, the projected need of the landlords that they want to

get the building in question for starting a restaurant business is only a ruse to get him evicted as it is practically impossible.

4. From the findings of the Rent Control Court as confirmed by the appellate authority, we notice is that it is a fact that the landlords are businessmen settled in middle east as contended by the learned counsel for the petitioner. In the rent control petition and in the evidence of PW1, it has been clearly deposed that it is their firm decision to start a restaurant business in the tenanted premises. The decision of the landlord to return to India is also disclosed in the evidence. It may be true that the landlords are having business interests and are stationed outside the country as contended by the petitioner. But, that does not mean that they are not eligible for seeking eviction of a tenant invoking their right provided under Section 11(3) of the Act. Therefore, we cannot accept the case of the petitioner merely for the reason that the landlords are stationed abroad. On the other hand, if the landlords do not occupy the premises as claimed in the rent control petition, Act itself provides for remedy. Further, we also note from the evidence that the tenant himself is also a

person having business interest in the middle eastern countries and stationed there.

5. In the above circumstances, we are not persuaded to think that the order of the Rent Control Court as confirmed by the appellate authority accepting the ground under Section 11(3) of the Act suffers from any irregularity for interference.

RCR is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

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PA to Judge