

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

RCCRev..No. 222 of 2014 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 26/2012 of ADDL.D.C. &
ADDL.MACT,THALASSERY DATED 24-03-2014**

**AGAINST THE ORDER/JUDGMENT IN RCP 129/2010 of MUNSIFF COURT, THALASSERY
DATED 29-02-2012**

REVISION PETITIONER(S)/APPELLANT/RESPONDENT:

**P.P. PARIMALA AGED 51 YEARS
D/O.PADMANABHAN, BUSINESS
RESIDING AT MEPPALI PARAMBIL, KOOTTOOLI AMSOM
MAVOOR DESOM, KOZHIKODE.**

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

RESPONDENT(S)/RESPONDENT/PETITIONER:

**C. LATHEEF, AGED 58 YEARS
S/O.LATE ABDUL KHADER, RESIDING AT AL FARAR
NEAR TOWN BANK AUDITORIUM, P.O.THIRUVANGAD
THIRUVANGAD AMSOM AND DESOM, TELLICHERY TALUK
KANNUR - 670 103.**

BY ADV. SRI.C.P.PEETHAMBARAN

**THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 14-01-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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R.C.Rev.No. 222 of 2014

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Dated this the 14th day of January, 2015

O R D E R

ANTONY DOMINIC, J.:

The tenant is the revision petitioner. The respondent landlord filed R.C.P.No.129/2010 before the Rent Control Court, Thalassery, seeking eviction under Sec.11(3) of the Kerala Buildings (Lease and Rent Control) Act. The Rent Control Court considered the case in the light of the contentions of the landlord and ordered eviction as prayed for. The order shows that though the tenant claimed protection of both the provisos to Sec.11(3), there is discussion only insofar as the first proviso is concerned. The tenant thereupon filed R.C.A.No.126/2012 before the Rent Control Appellate Authority, Thalassery. The appellate authority heard the matter and confirmed the findings of the Rent Control Court. The appellate authority also discussed the case of the tenant claiming the benefit of the second proviso and after discussion of this issue, rejected that contention as well. It is these orders which are called in question by the tenant before us.

2. We heard the counsel for the petitioner and the learned counsel appearing for the respondent landlord.

3. Having heard the counsel on both sides, we are inclined to think that the findings of the Rent Control Court as confirmed by the appellate authority, insofar as it relates to Sec.11(3) of the Act and the first proviso thereunder, does not call for any interference and these findings are accordingly confirmed.

4. However, insofar as the second proviso to Sec.11(3) is concerned, though the tenant had claimed the benefit thereof, the order of the Rent Control Court does not contain any discussion on this issue. However, this issue has been discussed by the appellate authority. We are inclined to agree with the counsel for the petitioner that this discussion of the appellate authority, is unsatisfactory and without adverting to the relevant aspects highlighted by both sides. Therefore, we are inclined to set aside the order passed by the appellate authority and remit the matter back to the appellate authority for fresh consideration only on the claim of the tenant for the benefit of the second proviso to Sec.11 (3).

5. The matter will stand remitted to the appellate authority

with liberty to the parties to produce documents if any, in support of their respective contentions. The appellate authority shall pass fresh orders in the matter as expeditiously as possible, at any rate, within four months of production of a copy of this order. The parties are directed to appear before the appellate authority on 2.2.2015.

The Revision is disposed of as above.

Sd/-
ANTONY DOMINIC, JUDGE

sdk+ Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge