

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

RCRev..No. 290 of 2014 ()

AGAINST THE ORDER/JUDGMENT IN IA NO.245/13 IN RCA 13/13 ON THE FILE OF
RENT CONTROL APPELLATE AUTHORITY (DISTRICT JUDGE) KALPETTA WYNAD AND
IN THE ORDER IN RCP 8/2011 OF RENT CONTROL MUNSIFF MAGISTRATE, SULTHAN
BATHERY DATED 20-03-2013

REVISION PETITIONERS/PETITIONERS/APPELLANTS:

1. DR. VARUN AGED 32 YEARS
S/O.CHANDRASEKHARAN VAIDYAR
RESIDING AT ARUN NIVAS HOUSE, ERIYAPPALLY POST
PULPALLY AMSOM DESOM, S.BATHERY TALUK
2. DR.ARUN AGED 34 YEARS
S/O.CHANDRASEKHARAN VAIDYAR
RESIDING AT ARUN NIVAS HOUSE, ERIYAPPALLY POST
PULPALLY AMSOM DESOM, S.BATHERY TALUK

BY ADVS.SRI.K.RAKESH ROSHAN
SRI.MANSOOR.B.H.

RESPONDENT/RESPONDENT/RESPONDENT:

- *1. VARGHESE K.M., AGED 54 YEARS
S/O. MATHAI, RESIDING AT KANNAMPARAMBIL HOUSE
KARTHIKA CONSORTIUM HOUSING COLONY, THODUVATTY
BATHERY POST, SULTHAN BATHERY AMSOM DESOM,
S.BATHERY TALUK 673 224. (*DIED)
- #2. TOJO VARGHESE, AGED 23 YEARS,
S/O LATE VARGHESE K.M
RESIDING AT KANNAMPARAMBIL (H)
KARTHIKA CONSORTIUM HOUSING COLONY,
THODUVATTY,
SULTHAN BATHERY POST, SULTHAN BATHERY AMSOM DESOM,
SULTHAN BATHERY TALUK, WAYNAD DISTRICT.

- #3. TEENA VARGHESE, AGED 29 YEARS,
D/O LATE VARGHESE K.M
RESIDING AT KANNAMPARAMBIL (H)
KARTHIKA CONSORTIUM HOUSING COLONY,
THODUVATTY,
SULTHAN BATHERY POST, SULTHAN BATHERY AMSOM DESOM,
SULTHAN BATHERY TALUK, WAYNAD DISTRICT.
- #4. TINTO VARGHESE, AGED 26 YEARS,
S/O LATE VARGHESE K.M
RESIDING AT KANNAMPARAMBIL (H)
KARTHIKA CONSORTIUM HOUSING COLONY,
THODUVATTY,
SULTHAN BATHERY POST, SULTHAN BATHERY AMSOM DESOM,
SULTHAN BATHERY TALUK, WAYNAD DISTRICT.
- #5. OMANA VARGHESE, AGED 52 YEARS,
W/O LATE VARGHESE K.M
RESIDING AT KANNAMPARAMBIL (H)
KARTHIKA CONSORTIUM HOUSING COLONY,
THODUVATTY,
SULTHAN BATHERY POST, SULTHAN BATHERY AMSOM DESOM,
SULTHAN BATHERY TALUK, WAYNAD DISTRICT.

(#ADDL.RESPONDENTS 2 TO 5 ARE IMPEADED AS LEGAL REPRESENTATIVES OF
THE DECEASED 1ST RESPONDENT VIDE ORDER IN IA NO.153/15 DT 22/1/15)

ADDL R2-5 BY ADV. SRI.N.ANAND
ADDL R2-5 BY ADV. SRI.ARUN AJAY SHANKAR
ADDL R2-5 BY ADV. SRI.JIKKU SEBAN GEORGE

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 22-01-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

RCR NO.290/14

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A: LEGAL HEIRSHIP CERTIFICATE ISSUED BY THE
TAHSILDAR DT 23.4.14.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
=====

R.C.R. No. 290 of 2014
=====

Dated this the 22nd day of January, 2015

O R D E R

Antony Dominic, J.

The tenants in RCP No.8/11 on the file of the Rent Control Court, Sulthan Bathery are the revision petitioners. The deceased 1st respondent herein filed the RCP seeking eviction of the petitioners under Section 11(2)(b) and 11(3) of the Kerala Building (Lease and Rent Control) Act. By its order dated 20th of March, 2013, Rent Control Court ordered eviction under Section 11(2)(b). It appears that subsequent to the order, the 1st respondent expired on 31/8/13. However, without impleading his legal heirs, the petitioners filed RCA No.13/13 along with IA No.245/13 for condonation of delay of 68 days. That application for condonation of delay was dismissed by the appellate authority by its order dated 6/12/13. It is this order, which is challenged before us.

2. We heard the learned counsel for the petitioners and the learned counsel appearing for additional respondents 2 to 5, who are the legal heirs of the deceased 1st respondent.

3. The only question that arises now for our consideration is whether the delay of 68 days in filing the Rent Control Appeal was satisfactorily explained by the petitioners. Having gone through the material available and also on hearing the parties on either side, we are inclined to think that there was satisfactory explanation for the delay and therefore the delay ought to have been condoned. But, however, there is force in the submission of the learned counsel for the respondents that in the absence of the legal heirs of the deceased 1st respondent on the party array, the appeal or the application for condonation of delay could not have been maintained. Therefore, the conclusion of the delay petition shall be subject to the petitioners' filing of applications for bringing the appropriate parties on record in the appeal filed by them.

4. Accordingly, we dispose of this revision directing that subject to the petitioners' filing necessary applications to bring on record the legal heirs of the deceased 1st respondent within two weeks from today, the delay in filing RCA No.13/13 will stand condoned. On the filing of the necessary IAs as observed by us, the appellate authority shall consider the same in accordance

with law and if it decides to entertain the appeal, the appellate authority shall also dispose of the appeal on an expeditious basis.

Petitioners will produce a copy of this order before the Rent Control Appellate Authority for compliance.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge