

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

RCRev.No.295 of 2014 (D)

AGAINST THE JUDGMENT IN RCA 22/2013 of RENT CONTROL APPELLATE
AUTHORITY (ADDL. DISTRICT COURT), TIRUR DATED 28-08-2014

AGAINST THE ORDER IN RCP 11/2012 of RENT CONTROL COURT (MUNI-MAGI.
COURT), PONNANI DATED 12.6.2013

REVISION PETITIONER/APPELLANT/RESPONDENT:

ELAYODATH HAMZA, AGED 48 YEARS
S/O.ABOOBACKER, ELAYODATH HOUSE, EZHUVATHIRUTHY AMSOM
KARUKATHURUTHY DESOM, PONNANI TALUK, P.O.PONNANI.

BY ADVS.SRI.C.KHALID
SRI.N.A.JOSEPH
SRI.K.P.MOHAMED SHAFI
SMT.K.S.HASEENA
SRI.PHIJO PRADEESH PHILIP
SRI.K.REEHA KHADER
SMT.K.K.NESNA

RESPONDENT/RESPONDENT/PETITIONER:

KARUPPAKKA VEETIL KHADEEJA, AGED 57 YEARS
W/O.MOIDUNNI, KALIYATHEL HOUSE, ERAMANGALAM AMSOM
P.O.ERAMANGALAM, PONNANI TALUK.

BY ADV. SRI.JAMSHEED HAFIZ

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

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 3rd day of March, 2015.

ORDER

Antony Dominic, J.

Heard the learned counsel for the petitioner-tenant and learned counsel appearing for the respondent-landlord.

2. The respondent filed R.C.P.No.11/2012 on the file of the Rent Control Court, Ponnani seeking eviction of the petitioner, a tenant. In the petition, the landlord pressed into service grounds under Secs. 11(2)(b) and 11(3) of the Rent Control Act. The Rent Control Court, by its order dated 12.6.2013, ordered eviction of the tenant accepting both grounds. The tenant challenged the order of eviction before the Rent Control Appellate Authority, Tirur in R.C.A.No.22/2013. The Appellate Authority, by its judgment dated 28.8.2014, rejected the appeal. Aggrieved by these orders, the tenant has filed this revision.

3. In so far as the ground of arrears of rent under Sec. 11(2)(b) found against the tenant is concerned, the appellate order itself show that the tenant did not contest that finding. This contention was also not pressed before us.

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4. In so far as the bonafide need urged by the respondent is concerned, the case of the respondent was that her husband, an engineer, was working abroad and retired from service. According to her, he was remaining unemployed and wanted to start the business of building materials. It was for this purpose, the landlord sought eviction of the tenant under Sec. 11(3). The need projected by the landlord was deposed by PW1, her husband. Although the tenant contended that the ground of bonafide need urged was only a ruse to get him evicted, there was nothing to suspect the bonafides of the contention raised by the landlord.

5. In so far as proviso to Sec. 11(3) are concerned, the order passed by the courts below show that these grounds were neither properly claimed nor established by the tenant. It was in such circumstances, that the order of eviction was passed under Sec. 11(3). Before the Appellate Court the tenant raised a contention that during the pendency of the proceedings, the landlord get one room vacated and without occupying the same, the room was let out to one Dinesan. Accordingly, the tenant filed I.A.No.3130/2014 and got the

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said Dinesan examined before the Appellate Authority as RW2. However, Dinesan did not support the case of the petitioner. This therefore means that even the examination of RW2 could not in any manner impeach the evidence of landlord of the bonafide need urged by her. Evidence being as above, we do not find any reason to find fault with the conclusions of the Rent Control Court as confirmed by the Appellate Authority in the impugned orders. Accordingly, the revision is dismissed.

6. At this stage, the learned counsel for the petitioner requested that since the tenant is conducting a stationery business, he be given a reasonable time to search out a new premises and shift his business. On this request, we heard the counsel for the landlord also. We agree with the counsel for the petitioner that the petitioner would need reasonable time to search out a new premises and shift his running business. In such circumstances, we allow the tenant one year time from today to surrender vacant possession of the scheduled room to the landlord. This shall however be subject to the condition that the tenant shall, within two weeks from today, file affidavit before the Rent Control Court/Execution Court

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unconditionally undertaking to surrender vacant possession of the room to the landlord on or before the expiry of the one year period allowed by us. The tenant shall also clear the arrears of rent, if any, within a period of four weeks from today and shall continue to pay the rent without default during the one year period allowed by us.

**Sd/-
ANTONY DOMINIC,
Judge.**

**Sd/-
ALEXANDER THOMAS,
Judge.**

Bkn/-

// True Copy //

P.A to Judge.