

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

RCRev..No. 331 of 2014 ()

**AGAINST THE ORDER/JUDGMENT IN RCA 9/2012 of ADDL.DISTRICT COURT & RENT
CONTROL APPELLATE AUTHORITY, NORTH PARAVUR DATED 11-08-2014**

**AGAINST THE ORDER/JUDGMENT IN RCP 17/2010 of RENT CONTROL COURT, N.
PARAVUR DATED 29-02-2012**

REVISION PETITIONER(S)/APPELLANT/RESPONDENT/TENANT:

**MOHANAN AGED 63 YEARS
S/O. KUMARAN CHEMMALIL, KEDAMANGALAM MURI
PARAVOOR VILLAGE.**

BY ADV. SRI.S.SHYAM

RESPONDENT(S)/RESPONDENTS/PETITIONERS/LANDLORDS:

**1. ARUN BABU, AGED 45 YEARS
S/O. MANIKKAVASAM BABU, SANTHAM HOUSE H. NO. 63
VATTIYOORKAVU KARA AND VILLAGE, THIRUVANANTHAPURAM.**

**2. HENA VIJYAYAN, AGED 40,
W/O. ARUN BABU, SANTHAM HOUSE H. NO. 63
VATTIYOORKAVU KARA AND VILLAGE
THIRUVANANTHAPURAM. (RESPONDENTS 1 AND 2
REPRESENTED BY S.APPAN
S/O. SUBRAMANIAN, TC 38/2291, ARYASALA
CHALA P.O., THIRUVANANTHAPURAM.**

**R1 BY ADV. SRI..SHAIJAN C.GEORGE (CAVEATOR)
R1 & 2 BY ADV. SRI.R.LAKSHMI NARAYAN
R1 & 2 BY ADV. SMT.R.RANJINI**

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 07-
01-2015 ALONG WITH RCR NO.333/14, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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R.C.R.Nos.331 & 333 of 2014
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Dated this the 7th day of January, 2015

O R D E R

Antony Dominic, J.

These rent control revisions are filed by the tenant/respondent in RCP Nos.17/10 and 14/10 respectively, in which orders of eviction under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act were passed and which orders were confirmed by the appellate authority in RCA Nos.9/12 and 8/12 by the common order of the appellate authority dated 11th of August, 2014. It is aggrieved by these orders, the rent control revisions are filed.

2. We heard the learned counsel for the revision petitioners and also the learned counsel appearing for the respondents, who entered appearance on caveat.

3. According to the learned counsel for the revision petitioners, the ground under Section 11(3) of the Act urged by the landlords has no substance. It is contended that they are employed and are living in United States of America and that therefore they are most unlikely to come back and start a super market business as claimed by them.

4. Going by the pleadings and the evidence that was available, as we have already stated, the petitions were filed seeking eviction of the tenants in the ground floor of the building owned by the respondent landlords urging ground under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act. According to the landlords, though they are now employed and living in USA, it is their intention to return to the native place and settle down there and start super market in the ground floor of the petition schedule building. It was therefore they sought eviction of the petitioners. The bonafide need urged by them was testified by the 2nd respondent. It was accepting the evidence available that the Rent Control Court ordered eviction and which order was confirmed by the appellate authority. We do not see any reason to doubt the bonafide need urged by the landlords.

5. In so far as the case of the petitioners that the landlords are not likely to come back and start a business as claimed by them is concerned, in our view, that possibility

suggested by them is no reason to reject the ground urged by the landlords. On the other hand, if as claimed by them, the landlords do not return and start a business as claimed by them, the Act itself provides for remedies to the tenants.

6. Taking note of the contentions urged and having gone through the orders impugned, we are not satisfied that the orders call for any interference.

7. R.C.Rs are dismissed.

8. At this stage, learned counsel for the petitioners sought six months time to surrender vacant portion of the demised building. When this submission was made, learned counsel for the respondents pointed out that the rent is also in arrears.

Taking note of the submissions made by both sides, we direct that subject to the petitioners paying the rent up-to-date and continuing the same and also on their filing an affidavit before the Rent Control Court unconditionally undertaking to

surrender vacant possession of the rooms in question, they will be given six months time from today to surrender vacant possession of the rooms in question. The affidavit as above shall be filed and payment shall be made within ten days from today.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge