

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

RP.No. 324 of 2015 INORDER DATED 16.01.2015
IN I.A.NO.1433 OF 2013 IN RFA.521/2013

REVIEW PETITIONER(PETITIONER/APPELLANT IN I.A.):

ALEYAMMA GEORGE
W/O.GEORGE KOCHAKKAN, 41/230, 'NISHA'
CHAKKUMKAL ROAD, PALARIVATTOM, KOCHI 282025

BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL

RESPONDENT(S) (RESPONDENTS/RESPONDENTS IN THE IA):

1. SUSAN PHILIP
W/O.PHILIP JACOB, NALAM VELIL HOUSE, KALLOOR
WORKING AT 14, TEMPLE AVENUE, SHIRLEY CROYDON
SURRY, CRO 8QA, ENGLAND
2. PHILIP JACOB
S/O.JACOB JOHN, NALAM VELIL HOUSE, KALLOOR
WORKING AT 14, TEMPLE AVENUE, SHIRLEY CROYDON
SURRY, CRO 8QA, ENGLAND

BY SRI.K.V.JAYACHANDRAN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 30-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

kp/-

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

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R.P.No.324 of 2015

in

I.A.No.1433 of 2013

in

R.F.A. No.521 of 2013

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Dated this the 30th day of June, 2015

ORDER

P.N.Ravindran, J.

The prayer in this review petition is to review and recall the order passed by us on 16.01.2015 dismissing I.A.No.1433 of 2013, an application filed by the appellant in R.F.A.No.521 of 2013 for an order of injunction restraining the respondents from transferring or encumbering the plaint schedule property. A review of the said order is sought on the ground that the tenancy is admitted for the period prior to 21.6.2006 and not for the period after the execution of Ext.A2 agreement, the specific performance of which was sought in the suit and was declined by the trial court. It is contended that the observation made by this court to the effect that the petitioner is a tenant will have impact in the proceedings under Kerala Buildings (Lease and Rent Control) Act, 1965, now pending between the parties.

2. It is not in dispute that the appellant is in possession of a residential building under a tenancy arrangement. R.C.P.No.22 of 2007 instituted by the first respondent before the Rent Control Court

Ernakulam, was allowed by order passed on 26.05.2008 and an order for eviction under sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 was issued. R.C.A No.74 of 2008 filed therefrom by the tenant was allowed in part and the order of eviction passed under section 11(3) of the Act was set aside. The order for eviction under section 11(2)(b) of the Act was however maintained. A petition for review filed by the tenant is pending before the Rent Control Appellate Court. Such a review petition was filed pursuant to the order passed by this court in R.C.R.No.16 of 2014. It is after the landlord instituted R.C.P.No.22 of 2007 that the appellant tenant instituted O.S.No.166 of 2007 before the Sub Court, Ernakulam, seeking specific performance of Ext.A2 agreement. The said suit was dismissed after entering a finding that the execution of Ext.A2 agreement has not been duly proved. The trial court also took note of the discrepancy as regards the sale consideration alleged to have been agreed upon. The appellant had in O.S.No.166 of 2007 admitted in categorical terms that she is a tenant of the plaint schedule property and first respondent is the landlord.

3. The mere fact that there are disputes and differences between the parties cannot therefore be a reason to contend that if the appellant is described as the tenant of the building, her contentions will

be seriously prejudiced. The appellant who is residing in the building owned by the respondent had filed the suit seeking specific performance of Ext.A2 agreement which according to her obliges the landlord to convey the property belonging to her. If the respondent is not the landlord one fails to understand why, the tenant residing therein should enter into an agreement with him, assuming there was such an agreement.

We are therefore of the considered opinion that no grounds have been made out warranting a review of the impugned order. The review petition fails and is accordingly dismissed. No costs.

sd/-

**P.N.RAVINDRAN
JUDGE**

sd/-

**ANIL K.NARENDRA
JUDGE**

kp/-

true copy

P.A. To Judge.