

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

W.P.(C).No.2381 of 2015 (W)

PETITIONER(S):-

THOMAS STEPHEN, AGED 46 YEARS, S/O.ALLES STEPHEN,
SOLE PROPRIETOR,
GABRIELA ROSE INTERNATIONAL, K.MALL, KOLLAM
AND RESIDING AT GRACE BHAVAN, MUNDAKKAL EAST, KOLLAM.

BY ADVS.SRI.N.NANDAKUMARA MENON (SENIOR ADVOCATE)
SRI.SUNNY ZACHARIAH
SRI.P.K.MANOJKUMAR.

RESPONDENT(S):-

1. THE ACCOMADATION CONTROLLER AND TALUK THAHASILDAR,
TALUK OFFICE, KOLLAM - 691 001.
2. EXECUTIVE ENGINEER, KSEB, CONTONMENT SECTION,
KOLLA M - 691 001.
3. M/S. FORT IN INFRA DEVELOPERS PVT. LTD.;
DOOR NO.41/2299 (OLD NO.17/1491-D),
3RD FLOOR, MALABAR GATE, RAM MOHAN ROAD,
KOZHIKODE-673 004, REPRESENTED BY ABDUL JALEEL R.

R1 BY GOVERNMENT PLEADER SRI.MANOJ P.KUNJACHAN.
R2 BY STANDING COUNSEL SRI.SAJEEVKUMAR K.GOPAL.
R3 BY ADVS. SRI.S.SREEKUMAR (SENIOR ADVOCATE)
SRI.P.PRIJITH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1 - TRUE COPY OF THE ORDER BY THE 1ST RESPONDENT
DT.17-12-2014 IN PROCEEDINGS NO.B-2-66037/14.
- EXT.P2 - TRUE COPY OF THE REPRESENTATION DT.15-1-15 MADE TO
THE 1ST RESPONDENT BY THE PETITIONER.
- EXT.P3 - TRUE COPY OF THE REPRESENTATION DT.14-1-15 MADE TO
THE 2ND RESPONDENT BY THE PETITIONER.
- EXT.P4 - TRUE COPY OF INTIMATION BY THE 2ND RESPONDENT SENT
TO THE PETITIONER.
- EXT.P4(a) - TRUE COPY OF THE RELATIVE ENVELOP CONTAINED EXHIBIT P4.
- EXT.P5 THE ELECTRICITY BILL DATED 4.11.2014.
- EXT.P5(a) THE RECEIPT DATED 13.1.2015.
- EXT.P6 THE ORDER OF THE APPELLATE COURT DATED 12.01.2015
IN I.A.NO.2138/2014 IN CMA.1/2015.
- EXT.P7 TRUE COPY OF THE ORDER DATED 20.01.2015 IN
I.A.NO.2138/2014 IN CMA.1/2015.
- EXT.P8 TRUE COPY OF THE I.A.NO.140/2015 FOR THE REVIEW OF
EXHIBIT P7.
- EXT.P9 TRUE COPY OF THE AFFIDAVIT DETAILING THE PAYMENTS.
- EXT.P9(a) TRUE COPY OF THE PAYMENT CHALLAN.
- EXT.P10 TRUE COPY OF I.A.2138/2014 FILED BY THE 3RD RESPONDENT.
- EXT.P11 TRUE COPY OF THE ADDENDUM DATED 09.02.2012.
- EXT.P12 TRUE COPY OF THE INVOICE FOR RENT DATED 4.3.2012.
- EXT.P12(a) TRUE COPY OF THE INVOICE FOR COMMON SERVICE CHARGE
DATED 5.3.2012.

- EXT.P13 TRUE COPY OF THE INVOICE FOR RENT DATED 1.5.2013.
- EXT.P13(a) TRUE COPY OF THE INVOICE FOR COMMON SERVICE CHARGE DATED 1.5.2013.
- EXT.P14 TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT DATED 2.7.2014.
- EXT.P15 TRUE COPY OF THE REMITTANCE DETAILS MADE TO THE 3RD RESPONDENT, CERTIFIED BY THE AXIS BANK.
- EXT.P15(a) TRUE COPY OF THE REMITTANCE DETAILS CERTIFIED BY THE SOUTH INDIAN BANK.

RESPONDENT(S)' EXHIBITS:-

- EXT.R2(a) TRUE COPY OF THE LETTER DATED 24.01.2015.
- EXT.R2(b) TRUE COPY OF THE COMMUNICATION FROM THE 3RD RESPONDENT.
- EXT.R3(a) TRUE COPY OF LEASE AGREEMENT BETWEEN PETITIONER AND 3RD RESPONDENT.
- EXT.R3(b) TRUE COPY OF O.S.NO.823 OF 2014 FILED BEFORE MUNSIF'S COURT, KOLLAM ON 17.7.2014.
- EXT.R3(c) TRUE COPY OF ORDER IN CMA.NO.69/2014 DATED 17.11.2014.
- EXT.R3(d) TRUE COPY OF ORDER IN I.A.NO.3387/2014 IN O.S.NO.823/2014.
- EXT.R3(e) TRUE COPY OF ORDER IN I.A.NO.2318/2014 DATED 26.12.2014.
- EXT.R3(f) TRUE COPY OF THE DETAILS OF RENT AND MAINTENANCE CHARGED BY THE RESPONDENT.
- EXT.R3(g) TRUE COPY OF DETAILS OF RENT DUES AND COMMON AREA SERVICE CHARGES DUES OF PETITIONER FROM 01.01.2012 TO 30.06.2013.
- EXT.R3(h) TRUE COPY OF LETTER DATED 17.06.2013 ISSUED TO THE PETITIONER.

VKU/-

[TRUE COPY]

K. Vinod Chandran, J

W.P.(C).No.2381 of 2015-W

Dated this the 01st day of June, 2015

JUDGMENT

The petitioner in the above writ petition was concerned with the implementation of Exhibit P1 order passed by the 1st respondent under Section 13 of the Kerala Buildings (Lease and Rent Control) Act, 1965 [for short “BRC Act”].

2. I have heard learned Senior Counsel Sri.N.Nandakumara Menon appearing for the petitioner and learned Senior Counsel Sri.S.Sreekumar appearing for the 3rd respondent as also Sri.Sajeevkumar K.Gopal, learned Standing Counsel for the Electricity Board.

3. Both the Senior Counsels vehemently argued for their respective positions. But the fact remains that, after the filing of the writ petition, the electricity connection, which was the bone of contention before the Accommodation Controller, was restored as per the interim directions issued by this Court. In such circumstance, the writ petition itself is infructuous.

4. However, allegations are raised by the 3rd respondent that the order itself was obtained by the petitioner behind the back of the 3rd respondent, since different addresses are given before the Accommodation Controller as also this Court; and that the 3rd respondent has not been issued with an order till date. The allegations are vehemently denied by the petitioner.

5. Though the allegations are not gone into by this Court, this Court is of the opinion that the matter can be settled if the Accommodation Controller is directed to pass final orders under Section 13 of the BRC Act. In such circumstance, the petitioner and the 3rd respondent or their authorised representatives/counsel shall appear before the Accommodation Controller on 15.06.2015. The petitioner and the 3rd respondent shall be permitted to place on record any material they intend to rely along with their objection, if any, within one week thereafter. The Accommodation Controller shall hear the parties and pass an order within six weeks from the date of appearance of parties, i.e., from 15.06.2015. It is made clear that this Court has not made any

observation on the merits of the matter and the petitioner and the 3rd respondent would be free to thrash out their differences before the Accommodation Controller.

The writ petition is disposed of as above. Parties are left to suffer their respective costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]