IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

RCREV. NO. 89 OF 2025

AGAINST THE JUDGMENT DATED 01.03.2025 IN RCA NO.145 OF 2024 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - III, THALASSERY ARISING OUT OF THE ORDER DATED 07.10.2024 IN RCP NO.181 OF 2014 OF MUNSIFF COURT, THALASSERY

REVISION PETITIONER/APPELLANT IN RCA/1ST RESPONDENT IN RCP:

NOCHOLI KUNHIMOOSA HAJI, AGED 81 YEARS, S/O. MAMMAD, 'WAHIDA MANZIL', P.O. PANOOR, PANOOR AMSOM, DESOM, THALASSERY TALUK, KANNUR DISTRICT, PIN - 670 692

BY ADVS.
R.PARTHASARATHY
B.KRISHNAN

RESPONDENTS/RESPONDENTS IN RCA/PETITIONERS & 2ND RESPONDENT IN RCP:

1 P.K. RUKHIYA, AGED 81 YEARS, W/O. ABOOBACKER, FAHAMIDA BENZAM, P.O CHIRAKKARA, THIRUVANGAD AMSOM, DESOM, THALASSARY TALUK, KANNUR DISTRICT, PIN - 670 103

2 P.K. FAHAD, AGED 60 YEARS, S/O. ABOOBACKER, THASNEEM, P.O. THIRUVANGAD, THIRUVANGAD AMSOM, DESOM, THALASSARY TALUK, KANNUR DISTRICT, PIN - 670 103

3 P.K. FAHMIDA, AGED 55 YEARS, , AGED 55 YEARS, D/O. ABOOBACKER, STUTHI, P.O. KURICHIYIL, KODIYERI AMSOM, EDAYANNUR DESOM, THALASSERY TALUK. PIN -, PIN - 670 103

4 P.K. AFEEFA, AGED 53 YEARS, D/O. ABOOBACKER, FAHAMIDA BENZAM, P.O .CHIRAKKARA, THIRUVANGAD AMSOM, DESOM, THALASSARY TALUK, KANNUR DISTRICT, PIN - 670 103

5 K. ANZEER, AGED 45 YEARS, BUSINESS, MENS PAVILION, LOGANS ROAD, THALASSERY TALUK, KANNUR DISTRICT, PIN - 670 101

BY ADVS.
P.P.NIYAS
R.PADMARAJ(K/191/1989)

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O R D E R

A. Muhamed Mustaque, J.

The tenant questions an order passed under Section 12(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (for short, "Act"), for stoppage of proceedings and put the landlord in possession by invoking power under Section 12(1) of the Act. The tenants were directed to pay the admitted arrears of rent from the date of passing of the order by the Rent Control Court on 07.10.2024 quantified at Rs.5,76,000/- within a period of four weeks and also directed to continue to pay the subsequent rent within 15 days from the date on which it falls due. The tenant failed to pay the same. Thereafter, the Rent Control Court passed final order under Section 12(3) of the Act. The matter was carried in appeal and Appellate Authority also affirmed the order of the Rent Control court.

2. The tenant has a case that the landlord caused damage by snapping the electricity connection and he has filed a suit for recovery for an amount of Rs.5,78,000/-. Therefore, the amount has to be set off.

3. It is to be noted that the question whether the tenant is entitled for damages is yet to be decided in the civil suit. The tenant cannot wriggle out from the liability to pay the rent pointing out the prospective defense to recover such amount from the landlord.

4. We do not find any reason to interfere with the impugned order. Accordingly, the revision petition is dismissed. However, we grant three months time to vacate the building on the following terms and conditions:

(i) An undertaking shall be filed before the Rent Control Court, within four weeks from today, that the petitioner-tenant will vacate the building within the time granted.

(ii) The entire arrears, if any, shall be cleared within four weeks and continue to pay the monthly rent up-to-date till the actual surrender of the building.

Sd/-
A.MUHAMED MUSTAQUE
JUDGE

Sd/-
P. KRISHNA KUMAR
JUDGE

PR