2025:KER:31196

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. 217 OF 2020

AGAINST THE JUDGMENT DATED 12/10/2020 IN CROSS OBJECTION IN RCA NO.14 OF 2015 OF RENT CONTROL APPELLATE AUTHORITY,MAVELIKKARA

REVISION PETITIONER/CROSS APPELLANT/PETITIONER:

K.KALA
AGED 36 YEARS
W/O.MANU, KANDISSERIL VEETTIL,
MAVELIKARA MURI, MAVELIKARA VILLAGE,
ALAPUZHA - 690 101.

BY ADV JOHN BRITTO

RESPONDENTS/CROSS RESPONDENTS/RESPONDENTS:

1 **MANIKANDAN**
AGED 43 YEARS
KALARIVATHUKKAL KIZHAKKETHIL,
(KANNAN NIVAS), KANDIYOOR MURI,
MAVELIKARA, ALAPUZHA - 690 103.

2 **JAYASREE**
AGED 41 YEARS

W/O.MANIKANDAN, KALARIVATHUKKAL KIZHAKKETHIL,
(KANNAN NIVAS), KANDIYOOR MURI,
MAVELIKARA,
ALAPUZHA - 690 103.

BY ADV VIJITHA V

THIS RENT CONTROL REVISION HAVING COME UP FOR HEARING ON 04.04.2025, ALONG WITH RCRev..220/2020, THE COURT ON 11.04.2025 PASSED THE FOLLOWING:

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. 220 OF 2020

AGAINST THEJUDGMENT DATED 12/10/2020 IN RCA NO.14 OF 2015 OF RENT CONTROL APPELLATE AUTHORITY,MAVELIKKARA ARISING OUT OF THE ORDER DATED 07.10.2015 IN RCP NO.5 OF 2014 OF RENT CONTROL COURT, MAVELIKKARA

REVISION PETITIONER/RESPONDENT/PETITIONER:

K.KALA
AGED 36 YEARS
W/O. MANU, KANDISSERIL VEETTIL, MAVELIKARA MURI,
MAVELIKARA VILLAGE, ALAPUZHA-690 101

BY ADVS.
JOHN BRITTO
SRI.C.A.RAJEEV

RESPONDENTS/APPELLANTS/RESPONDENTS:

1 **MANIKANDAN**
AGED 43 YEARS
KALARIVATHUKAL KIZHAKKETHIL, (KANNAN NIVAS),

KANDIYOOR MURI, MAVELIKARA, ALAPUZHA-690 103

2 JAYASREE
AGED 41 YEARS
W/O. MANIKANDAN, KALARIVATHUKAL KIZHAKKETHIL,
(KANNAN NIVAS), KANDIYOOR MURI, MAVELIKARA,
ALAPUZHA-690 103

BY ADV VIJITHA V

THIS RENT CONTROL REVISION HAVING COME UP FOR HEARING ON 04.04.2025, ALONG WITH RCRev..217/2020, THE COURT ON 11.04.2025 PASSED THE FOLLOWING:

2025:KER:31196

ORDER

P.Krishna Kumar, J.

The petitioner herein filed an eviction petition against the respondents under Sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 ('the Act', for short) before the Rent Control Court. Though she received a favourable order from the Rent Control Court, when the respondents herein preferred an appeal before the Rent Control Appellate Authority, the eviction order was set aside by the Appellate Authority and the said order is under challenge before us. The Cross Objection preferred by the petitioner was also dismissed by the Appellate Authority and thus the petitioner preferred two revision petitions against the said common order.

2. According to the petitioner, she rented out a residential building to the respondents for a monthly rent of Rs.1,000/- on the basis of a rental agreement executed by the first respondent on 20.05.2013. Later, from July 2013 onwards, the respondents failed to pay the monthly rent. The petitioner *bona fide* requires the vacant possession of the tenanted building for her own occupation and hence she preferred the eviction petition, it is contended.

3. The eviction petition was stoutly resisted by the respondents by contending that the tenanted premises and the appurtenant land belong to the second respondent and that there exists no landlord-tenant relationship between them. The second respondent was forced to execute a sale deed in favour of the petitioner through fraudulent means and thus the second respondent filed a civil suit before the Munsiff Court for setting aside the said deed. The respondents further contended that, as part of a money

transaction between respondent No.2 and the father of the petitioner, the respondents were compelled to hand over blank signed stamp papers and the purported rent deed was fabricated by the petitioner by using the said stamp papers.

4. We heard the learned counsel appearing for the petitioner and the respondents.

5. The Rent Control Court elaborately considered the question relating to the existence of a landlord-tenant relationship and the *bona fides* in the denial of title by the respondents and ultimately found that the recitals in Ext.A4 sale deed would show that respondent No.2 had transferred her entire right over the property and the building therein in favour of the petitioner for a price paid and there is no covenant for reconveyance of the property on the happening of some future event and thus the denial of title is not *bona fide*. The Rent Control Court further noted that, respondent No.2 made an admission during cross-

examination that the petitioner is the landlady of the building.

6. The Rent Control Appellate Authority, on the other hand, found that the petitioner failed to prove the landlord-tenant relationship. The Court did not rely on the rent deed, by observing that apparently it appears from Ext.A1 that the signature of the executant has been placed in specifically marked portions, which probabilise the contentions of the respondents that it was fabricated document on a blank stamp paper. The Appellate Authority further noted that the petitioner has no explanation as to why respondent No.1 did not sign at the end of the recitals on page No.2 of Ext.A1 in acknowledgement of the terms and conditions of the agreement. It is further observed that the signature of respondent No.1 is available only at the very end of the second page. The court further disbelieved the version of the petitioner that Ext.A1 document was brought prepared

by respondent No.1, for the reason that in such a situation, there was no need for putting an 'x' mark near the signature. The Appellate Authority further disbelieved PW3, purportedly an attesting witness of Ext.A1, on the ground that the most relevant evidence of attestation of the document was let in through the attesting witness in reply to a leading question in chief-examination. The Appellate Authority further found that the admission made by respondent No.2 that the petitioner is the landlady of the building was only a slip of the tongue and that she clarified it during the re-examination. However, the Appellate Authority found that there is no genuineness in the denial of title of the petitioner by the respondents.

7. As the learned counsel appearing for the petitioner strenuously contended that the petitioner has discharged her burden to prove the genuineness of Ext.A1 by examining the attesting witnesses and that the Appellate Authority failed to appreciate the

evidence in the correct perspective, we re-appreciated the entire evidence in the light of the contentions raised by both sides. When we inspected the document in question, we also felt all the doubts expressed by the Rent Control Appellate Authority. The evidence of PW1, the petitioner, does not inspire confidence as she was unable to explain several material questions put to her by the cross-examiner. She admitted that the name of the executant of the document is missing at the concluding portion and there is a gap beneath the name of the witnesses and that the address of the attesting witnesses was not entered in Ext.A1. She also raised a new contention during cross-examination that Ext.A1 was brought before her by the first respondent after getting it prepared somewhere. She conceded that on every page there is an 'x' mark at the place where the signature is affixed. The evidence of PW2 and PW3 also suffers several infirmities, as noted by the Appellate Authority. The above evidence,

in our opinion, is insufficient to prove the landlord-tenant relationship.

8. In short, we concur with the finding of the Appellate Authority that the petitioner failed to prove that the respondents are the tenants. The Rent Control Court failed to note the above aspects and arrived at a wrong conclusion in this regard. In **Thankachan v. V.Gireesh Kumar [2022 (1) KHC 521 (DB)]**, this Court has held that in such a situation the remedy open to the petitioner is to approach the Civil Court for getting possession of the building.

In the result, the revision petitions are dismissed.

Sd/-
A.MUHAMED MUSTAQUE
JUDGE

Sd/-
P.KRISHNA KUMAR
JUDGE

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