

**IN THE COURT OF THE RENT CONTROLLER,
CHENGANNUR**

**Present : Smt. Amala Lawrence, Rent Controller
Tuesday 16th day of September 2025(25th Bhadra 1947)**

**IA 03/24 IN RCP 1/2023
(Filed on 18.03.2024)**

Petitioner : Sheela.K.Abraham, aged 65 years,
W/o Abraham.K.George,
Kizhakkedath Veetil,
Koipram village, Thiruvalla Taluk,
Pathanamthitta District.
Represented by husband and Power of
attorney holder Abraham.K.George,
aged 70 years, S/o K.M.George,
Kizhakkedath Veetil,
Koipram village, Thiruvalla Taluk,
Pathanamthitta District.
(By Adv.Suresh Mathai)

Respondent : Prasad.M.Chериан, aged 55 years,
S/o M.C.Chериан,
Mappila Veetil,
Puthankavu.P.O,Angadikkal Muri,
Chengannur Village, Chengannur Taluk.
(By.Adv. Joseph George)

This petition have been finally heard on 07.07.2025 and the
court on 16.09.2025 passed the following.

ORDER

This petition has been filed by petitioners under Sec. 11 2(b) & (c) of Kerala Buildings (Lease and Rent Control) Act 1965.

2. **Petition averments, in brief, are as follows:-**

The present petition is filed by the Power of Attorney holder of the petitioner who is the husband of the petitioner. The plaint schedule shop room is required for the bonafide need for the petitioner's husband. The respondent has failed to pay the agreed rent, thereby committing default and resulting in arrears of rent. Hence, the respondent is liable to be evicted from the plaint schedule shop room. Accordingly, the rent control petition is filed seeking eviction of the respondent from the plaint schedule shop room and for recovery of the arrears of rent. The respondent is liable to deposit the arrears of rent before this Hon'ble Court from June 2018 to March 2023, which amounts to 58 months, totaling a sum of ₹3,04,500/-. In addition, from the date of filing of the original petition i.e.,

24.04.2023 till March 2024, there exists arrears of rent for 11 months. Thus, the total arrears of rent for 69 months come to ₹3,62,250/-.

3. The monthly rent of the plaint schedule shop room is ₹5,250/-, which has not been paid by the respondent to the owner of the building who is the petitioner. The respondent is legally bound to pay the monthly rent to the petitioner, failing which he has no lawful right to continue in possession of the plaint schedule shop room. Therefore, it is just and necessary that the respondent be directed to deposit the arrears of rent amounting to ₹3,62,250/- before this Hon'ble Court. In default of such payment, the respondent is liable to be evicted from the plaint schedule shop room on account of non-payment of arrears of rent. Hence, this petition.

4. **Contentions of the respondents, in brief, as follows:-** The petition is not maintainable either in law or facts. The petitioner has no locus standi to file the present petition. The original rent agreement was executed between the father of the petitioner, late V.D. Cherian, and the respondent on 21.12.1998 in respect of Building No. 799, Ward No. 13, for conducting an establishment named "Miami". As

per the said agreement, the monthly rent was fixed at ₹3,500/-, and a sum of ₹3,00,000/- was paid as security deposit to the father of the petitioner. The respondent has been in continuous possession of the plaint schedule shop room as a tenant since 1998. The tenancy continued with the consent of late V.D. Cherian, without renewal of the written agreement, and rent was paid regularly at the agreed rate. On 02.08.2003, the father of the petitioner expired. By way of oral understanding, the rent was enhanced, and the respondent continued to pay the rent accordingly. After his demise, the respondent was informed that the petitioner had become the owner of the building by succession.

5. The averment in the petition that the respondent defaulted in rent payment from June 2018 is false. After the death of V.D. Cherian, the rent was initially paid to the petitioner's brother Rajeev Cherian. Thereafter, as per his direction, from December 2016 the rent was paid to the petitioner's husband, Abraham K. George. On 26.02.2017, Rajeev Cheriyan also expired. Thereafter, the petitioner approached the respondent, claiming ownership of the plaint schedule shop room. On petitioner's demand, the respondent

signed a new agreement on 05.12.2017. From June 2018 onwards, the petitioner refused to accept the rent. Hence, the respondent has been regularly remitting the rent of ₹5,250/- per month through Indian Post Money Orders from 04.07.2018 till November 2024. All documents evidencing the same are produced. The petitioner and her husband are permanently residing in America. Therefore, the allegation that the shop room is required for their livelihood is false and unsustainable. On the contrary, the respondent has been conducting his business in the plaint schedule shop room for the last 26 years, which is his sole source of livelihood. The respondent has invested approximately ₹2,00,000/- for necessary improvements and works in the shop room, apart from other expenditures incurred over the years. The family of the respondent depends entirely upon the business conducted therein and has no other source of income. The petitioner has not followed the due process of law to evict the respondent. The so-called notice relied upon by the petitioner is not a legally valid notice under the relevant Rent Control Act and, therefore, has no binding effect. The husband of the petitioner

has no independent right to institute or maintain the present petition in law. The petition is liable to be dismissed.

6. From the above petition averment and contentions in the counter affidavit, the following points arise for consideration:

(i) Is the petitioner entitled to get an order under Section 12(1) of the Act?

(ii) Relief and costs?

7. From the side of the petitioner Ext.A1 to A3 documents were marked and from the side of the respondent Ext.B1 series to B6 series documents were marked.

8. Heard the learned counsel for the petitioner and the respondent and perused the records.

9. **Point No. i and ii:-** The petitioner has filed this Rent Control Petition under Sections 11(2)(b) and 11(c) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as "the Act"). The case of the petitioner is that the respondent defaulted in payment of rent from June 2018 to March 2024, covering a period of 69 months, and hence the rent for the said period, amounting to

₹3,62,250/- (Rupees Three Lakhs Sixty Two Thousand Two Hundred and Fifty only), remains in arrears. On the contrary, the respondent contends that there are no arrears of rent due to the petitioner and asserts that he has been prompt in making rent payments. It is further alleged that since 2018, the petitioner has been refusing to accept rent, it is remitted through money orders.

10. It is settled law that proceedings under Section 12 of the Act can be invoked against the tenant only when arrears of rent are admitted. In **Koyakkanari Sivadasan v. K. K. Nirmala, reported in 2022 (3) KHC 375**, a Division Bench of the Hon'ble High Court of Kerala held that, "in order to ascertain "arrears admitted by the tenant to be due," the Court may conduct a limited enquiry. Such enquiry is confined to a scrutiny of the petitions filed under Sections 11 and 12 of the Act, the objections thereto, and other materials brought on record by either party, solely for the purpose of ascertaining admission regarding the landlord-tenant relationship, the agreed monthly rent, and the quantum of arrears, if any. It was further held that if the materials on record disclose

or infer such admission, the Court shall direct the tenant to pay or deposit the arrears of rent due as on the date of the application under Section 12 of the Act, and to continue paying subsequent rent accruing during the pendency of the proceedings.

11. In the present case, there is no dispute regarding the existence of the landlord-tenant relationship or the rate of rent, which is ₹5,250/- per month. The respondent contends that she has paid all rent up to November 2024 and denies the allegation of arrears. To substantiate this contention, she has produced postal money order receipts, marked as Exts. B1 series to B6 series, evidencing remittance of rent to the petitioner. On perusal of Exts. B1 series to B6 series, it is found that the amounts correspond to the agreed monthly rent. However, the petitioner disputes receipt of the said rent and denies acceptance of the money orders. Learned counsel for the petitioner submitted that mere production of postal receipts cannot constitute conclusive proof of payment of rent. This issue “whether rent was duly paid or refused” can be adjudicated only after recording evidence. Since such a

detailed adjudication is not permissible in a proceeding under Section 12 of the Act, only a limited enquiry can be undertaken at this stage. The question regarding arrears as claimed by the petitioner till March 2024 falls properly for determination under Section 11(2)(b) of the Act.

12. In **Nandanam Tiles and Sanitaries Pvt. Ltd. v. Abdul Gafoor**, reported in **2022 (4) KHC 201**, the Hon'ble High Court of Kerala held that the expression "admitted arrears of rent" must be understood and construed in conformity with statutorily recognized modes of payment. Therefore, for the determination of a petition under Section 12 of the Act, it is permissible to require production of the rent deed by the landlord and rent receipt or document mentioned in Section 9(2) of the Act by the tenant. These materials would obviously show the admitted arrears of rent, without conducting any enquiry or adjudication. The Court further observed that any prudent tenant would and should resort to Section 9 of the Act in cases where the landlord refuses to issue receipt to him on his paying the rent due. If he is not prudent enough to resort to that course it will require very

strong evidence on his side to substantiate a plea that he has paid the rent without obtaining receipts for the same.

13. Section 9 of the Act provides that :-

(1) Every tenant who makes a payment on account of rent or advance shall be entitled to obtain a receipt in the prescribed form for the amount paid, duly signed by the landlord or his authorised agent.

(2) Where landlord refuses to accept, or evades the receipt of, any rent lawfully payable to him by a tenant in respect of the building, the tenant may either remit the rent to the landlord by money order after deducting the money-order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or may by notice in writing require the landlord to specify within ten days from the date of the notice a bank into which the rent may be deposited by the tenant to the credit of landlord; Provided that such bank, if specified as aforesaid, shall be one situated in the city, town or village in which the building is situated or, if there

is no such bank in such city, town or village, within three miles of the limits thereof. Explanation: It shall be open to the landlord to specify, from time to time, by a written notice to the tenant and subject to the foregoing proviso, a bank different from the one already specified by him under this subsection.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money-order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or specifies a bank in which the rent shall be deposited in accordance with the provisions of sub-section (2)

14. In the present case, both the landlord-tenant relationship and the rate of rent are admitted, and Exts. B1

series to B6 series show that the respondent remitted rent to the landlord by money order up to June 2025, thereby taking recourse to the procedure contemplated under Section 9(2) of the Act. However, the money-order receipts for May 2021, July 2021, and October 2021 have not been produced. Accordingly, it can be reasonably inferred that rent for five months, May 2021, July 2021, October 2021, August 2025, and September 2025 remains unpaid. In the absence of material to the contrary, it stands established that the arrears of rent relate only to these five months. Therefore, the petitioner is entitled to relief to the extent of admitted arrears for May 2021, July 2021, October 2021, August 2025 and September 2025. The respondent remains under a continuing statutory obligation under Section 12(1) of the Act to pay or deposit rent accruing during the pendency of the proceedings until their termination.

In the result, the petition is allowed as follows:-

- 1) The respondent is directed to pay or deposit a total amount of Rs.26,250/- (Rupees Twenty Six Thousand TwoHundred and Fifty only) with

interest @ 6% per annum to the petitioner towards the arrears of rent for the period of 5 months (July 2025, August 2025, May 2021, July 2021 and October 2021) within one month from the date of this order or he shall deposit the same before this court within one month from the date of this order.

- 2) The respondent shall continue to pay or to deposit the rent which falls due until the termination of the proceedings.
- 3) Considering the facts and circumstances of the case there is no order as to costs.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in the open court on this the 16th day of September 2025).

Sd/-
AMALA LAWRENCE
RENT CONTROLLER

APPENDIX

Witness for the Petitioner : Nil

Witness for the Respondant : Nil

Exhibits for the Petitioner :

A1	30.07.2019	Power of Attorney
A2	21.12.1998	Copy of Licence Agreement
A3	17.09.2003	Certified copy of Partition Deed No.2030/2003 of SRO, Chengannur.

Exhibits for the Respondent :

B1	04.07.2018	Postal Receipt.
B1(a)	04.08.2018	Postal Receipt.
B1(b)	04.10.2018	Postal Receipt.
B1(c)	04.11.2018	Postal Receipt.
B1(d)	04.12.2018	Postal Receipt.
B1(e)	04.01.2019	Postal Receipt.
B1(f)	04.02.2019	Postal Receipt.
B1(g)	05.03.2019	Postal Receipt.
B1(h)	04.04.2019	Postal Receipt.

B1(i)	04.05.2019	Postal Receipt.
B1(j)	04.06.2019	Postal Receipt.
B1(k)	05.07.2019	Postal Receipt.
B1(l)	05.08.2019	Postal Receipt.
B1(m)	05.09.2019	Postal Receipt.
B1(n)	04.10.2019	Postal Receipt.
B1(o)	05.11.2019	Postal Receipt.
B1(p)	05.12.2019	Postal Receipt.
B1(q)	03.01.2020	Postal Receipt.
B1(r)	05.02.2020	Postal Receipt.
B1(s)	05.03.2020	Postal Receipt.
B1(t)	03.04.2020	Postal Receipt.
B1(u)	04.05.2020	Postal Receipt.

B1(v)	05.06.2020	Postal Receipt.
B1(w)	04.07.2020	Postal Receipt.
B1(x)	05.08.2020	Postal Receipt.
B1(y)	05.09.2020	Postal Receipt.
B1(z)	05.10.2020	Postal Receipt.
B1(aa)	05.11.2020	Postal Receipt.
B1(ab)	05.12.2020	Postal Receipt.
B1(bc)	06.01.2021	Postal Receipt.
B1(cd)	05.02.2021	Postal Receipt.
B2	06.03.2021	Postal Receipt.
B2(a)	08.04.2021	Postal Receipt.
B2(b)		Postal Receipt.
B2(c)	08.06.2021	Postal Receipt

B2(d)	11.08.2021	Postal Receipt
B2(e)	06.09.2021	Postal Receipt
B2(f)	06.11.2021	Postal Receipt
B2(g)	08.12.2021	Postal Receipt
B3	07.01.2022	Postal Receipt
B3(a)	09.02.2022	Postal Receipt
B3(b)	09.03.2022	Postal Receipt
B3(c)	07.04.2022	Postal Receipt
B3(d)	04.05.2022	Postal Receipt
B3(e)	08.06.2022	Postal Receipt
B3(f)	04.08.2022	Postal Receipt
B3(g)	09.09.2022	Postal Receipt
B3(h)	06.10.2022	Postal Receipt
B3(i)	09.11.2022	Postal Receipt

B3(j)	07.12.2022	Postal Receipt
B4	06.01.2023	Postal Receipt
B4(a)	06.02.2023	Postal Receipt
B4(b)	04.03.2023	Postal Receipt
B4(c)	06.04.2023	Postal Receipt
B4(d)	09.05.2023	Postal Receipt
B4(e)	07.06.2023	Postal Receipt
B4(f)	06.07.2023	Postal Receipt
B4(g)	07.08.2023	Postal Receipt
B4(h)	07.09.2023	Postal Receipt
B4(i)	09.10.2023	Postal Receipt
B4(j)	09.11.2023	Postal Receipt
B4(k)	08.12.2023	Postal Receipt

B5	08.01.2024	Postal Receipt
B5(a)	12.02.2024	Postal Receipt
B5(b)	11.03.2024	Postal Receipt
B5(c)	08.04.2024	Postal Receipt
B5(d)	07.05.2024	Postal Receipt
B5(e)	06.06.2024	Postal Receipt
B5(f)	08.07.2024	Postal Receipt
B5(g)	12.08.2024	Postal Receipt
B5(h)	05.09.2024	Postal Receipt
B5(i)	10.10.2024	Postal Receipt
B5(j)	07.11.2024	Postal Receipt
B5(k)	10.12.2024	Postal Receipt
B6	10.01.2025	Postal Receipt
B6(a)	06.02.2025	Postal Receipt

B6(b)	07.03.2025	Postal Receipt
B6(c)	07.04.2025	Postal Receipt
B6(d)	05.05.2025	Postal Receipt
B6(e)	10.06.2025	Postal Receipt

Id/-

RENT CONTROLLER