

IN THE COURT OF THE MUNSIFF & RENT CONTROLLER, KOCHI
Present :-

Sri. Anirudhan T K, Additional Munsiff & Rent Controller

Tuesday the 6th day of August, 2024/ 15th Sravanam, 1946

I.A. No. 8/2024 in RCP No. 6/2022

Petitioner/Respondent:-

Shihab T A, aged 45 years, S/o.Abdul Khadar, Theyyath House,
Malippuram PO, Elamkunnapuzha Village, Kochi-682511

By Advs. M N Sanjith

Respondents/Petitioners:-

- 1 Joy Figarado, aged 70 years, S/o.Dominic, Pathissery House,
Malippuram PO, Elamkunnapuzha Village, Kochi-682511
- 2 Romy Figarado, aged 62 years, W/o.Joy Figarado, Pathissery House,
Malippuram PO, Elamkunnapuzha Village, Kochi-682511

By Adv. Santhosh Peter Mamalayil & P N Anoop

This petition come up for hearing before me on 31.07.2024 and the
court on 06.08.2024 passed the following:-

ORDER

Petition filed to direct the 2nd respondent to produce lease

agreement.

2. **Petitioner's contentions to summarize, is as follows:**

-Petitioner is the respondent in the above RCP. The above RCP is filed u/s11(3) of the Kerala Building(Lease and Rent Control)Act for evicting the petitioner from the petition schedule building bearing No.8/550 of Elamkunnapuzha Grama Panchayath. The ground for evicting the respondent is own occupation for the 1st defendant's wife ie, the 2nd respondent herein. But the respondents/petitioners have several buildings of their own and they have filed answers to the interrogatories filed as per IA.7/2023 stating that 2nd respondent was the owner of two shop rooms bearing Nos.8/218 and 8/218A of Elamkunnapuzha Grama Panchayath and one shop room is occupied by a tenant. It is stated therein that the tenant is paying an amount of Rs.10,000/-(Rupees Ten Thousand only) as rent for that shop room. But to the knowledge of the petitioner the 2nd respondent is getting more income than the amount stated. In order to prove that lease agreement executed between the 2nd respondent and the tenant is to be produced before this court, which is a material piece of evidence to prove the case of the petitioner. Hence the 2nd respondent may be directed to produce lease agreement executed by the 2nd respondent with the tenant of the shop room bearing Nos.8/218 or 8/218A of Ward No.VIII of

Elamkunnapuzha Grama Panchayath. Hence this petition.

3. The respondents/petitioners filed counter stating that the above RCP is filed for eviction of the petitioners/respondents for getting access to the immovable property belonging to the 2nd plaintiff. The room occupied by the petitioner herein is a separately built construction without any fence sharing or wall support except the portion of the petitioners/respondents' shop room all other boundaries of the 2nd petitioner's property were covered with multi storied buildings therefore could not get direct access to the road. If the shop room occupied by the petitioners/respondents has not been demolished the land occupied by the 2nd respondent/2nd petitioner will be idle.

4. The lease agreement sought to be produced has no relevancy in the RCP for considering the pleadings made by the respondents/petitioners for eviction. The effort of the petitioner/respondent is only to drag the proceedings that is why he is continuously filing interlocutory applications. The respondent/2nd petitioner owns two rooms and only one room is occupied by a tenant and she receives an income of Rs.10,000/-(Rupees Ten Thousand only) as rent for the room. In answering of interrogatories in IA.No.7/2023 the respondents/2nd petitioner has stated that she is not an income tax assessee and does not get other additional income. Since the

purpose of the use of the petition schedule building was specifically stated in the rent control petition there is no necessity to produce the lease agreement sought by the petitioners/respondents in IA. Therefore the petition may be dismissed with costs.

5. Heard both sides.

6. The following point arise for consideration:-

(i) Whether the petition is allowable?

7.The point:- The above RCP is filed u/s 11(3) of Kerala Building(Lease and Rent Control) Act ie, for own occupation of the 2nd respondent who is dependent on the 1st respondent. The purpose of the room is to have access to the other rooms owned by the 2nd respondent in order to have an access to the road. Therefore it is clear that own occupation of the 2nd respondent is not for the purpose of getting income from the petition schedule room. Hence as rightly contented by the respondent the lease agreement entered between 2nd respondent and her tenant is not at all relevant here. Moreover, the petition is sought only for the purpose of proving monthly income derived from that room by the 2nd respondent. Since in the counter affidavit it has stated that she is getting Rs.10,000/-(Rupees Ten Thousand only) per month, no further clarification

is necessary in this regard. Therefore the petition lacks merit and liable to be dismissed. The point answered accordingly.

In the result, petition stands dismissed.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 6th day of August 2024)

Sd/-
Anirudhan T K
Additional Munsiff/Rent Controller

APPENDIX : - Nil

Id/-
Additional Munsiff/Rent Controller

//True Copy//

Additional Munsiff/Rent Controller

ORDER

IA No.8/2024

RCP. No. 6/2022

Dated : 06.08.2024