

IN THE COURT OF THE MUNSIFF, KOYILANDY
Present:- Miss. Raveena Naz, Munsiff, Koyilandy
Wednesday, the 8th day of April, 2026

ORDER IN IA (Restoration) 1/2026 in R.C.P No. 11/2024

Between:

Valappil Moideenkutty, Aged 65 years, S/o. Mammad, } Petitioner
Viyyur Village, Kollam Desom, Koyilandy.

And:

Kadheeja, W/o. Muhammad, Aged 72 years, } Respondent
Naseema Manzil, Viyyur Village, Kollam Desom,
Koyilandy.

This Petition coming on this day for final hearing before me in the presence of Sri. K. Babu, Advocate for Petitioner and Sri. C.S. Jathish Babu, Advocate for Respondent and the Court passed the following:

ORDER

1. The Petition is filed under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC').
2. The gist of averments in the Petition, is as follows: The Petitioner herein is the Respondent in the Rent Control Petition. The Rent Control Petition has been filed under Sections 11(2)(b) and 11(3) of the Kerala Building (Lease and Rent Control) Act. The Petitioner contends that when the case was posted for evidence his mother who is 92 years old was unwell and was under treatment. As the Petitioner could not give necessary instructions to the counsel, the counsel submitted no instructions from his client and the Rent Control Petition was allowed *ex parte*. The Petitioner has got strong contentions in the Rent

Control Petition and if the *ex parte* Order in RCP is not set aside, it will cause irreparable injury to the Petitioner.

3. Notice was served upon the Respondent. The Respondent filed Objection contending as follows: No reason has been stated in the Petition as is sufficient to set aside the *ex parte* order. No document has been produced to establish that the mother of the Petitioner was unwell. The attempt of the Petitioner is to drag the proceedings. The Petition is to be dismissed with costs to the Respondent.

4. Upon rival contentions the following points are formulated for consideration:

1. Could the Petitioner establish sufficient reason for setting aside the *ex parte* Order dated 29.11.2025?
2. What shall be the order as to costs?

5. Heard the counsels for Petitioner and Respondent.

6. **Point No. 1**

As evident from the records of the case, the Rent Control Petition was listed for trial. As the learned counsel for the Petitioner herein submitted no instruction from his client, the evidence of the Petitioner in the Rent Control Petition was taken *ex parte*. The Petitioner contended that he could not appear before the Court or give necessary instructions to his counsel as his mother was unwell. The Respondent contended that the attempt of the Petitioner is to drag and delay the proceedings could not be set beside. But it is pertinent to note that the Petition was filed on 10.12.2025 without much delay after the Rent Control Petition was allowed.

7. Though the contention of the Petitioner could not be fully established by him, it is in the interest of the justice and strictly abiding to the principles of natural justice, the case has to be decided after hearing both the parties and after analysing the best evidence available. This Court is of the view that another opportunity can be granted to the Petitioner to redress his grievance. However, the hardship caused to the Respondent has to be compensated with costs. Therefore the Court is inclined to allow this Petition.

Point No. 1 is found in favour of the Petitioner.

8. Point No. 2

In view of discussions and findings on point No. 1, the Petition is to be allowed. In order to redress the hardship caused to the Respondent, costs of Rs. 5000/- (Rupees Five Thousand only) is allowed to the Respondent.

In the result,

The Petition is allowed and the ex parte Order in Rent Control Petition is set aside on payment of costs of Rs. 5000/- (Rupees Five Thousand only) to the Respondent within 7 days from the date of this Order. Needless to say in the event of failure to pay or deposit costs, the Petition shall stand dismissed.

(Dictated to Confidential Assistant, transcribed by her, corrected and pronounced by me in open Court, this the 8th day of April, 2026).

Witness & Exhibits on either sides : Nil

Sd/-
MUNSIFF

Sd/-
MUNSIFF

Order in IA (R) 1/2026 in
RCP 11/2024 Dated: 08.04.2026