

**IN THE COURT OF THE RENT CONTROL APPELLATE AUTHORITY
ADDITIONAL DISTRICT JUDGE - IV, THALASSERY**

Present:-Sri. Vimal. J, Addl. District Judge-IV.
Wednesday the 18th day of March, 2026/ 27th Phalguna 1948

RENT CONTROL APPEAL No. 15/2023

Mylanjikkal Kalathil Shahul Hameed, S/o. Abdulla Haji,]
aged 68 years, near Western India Cottons, Pappinissery] Appellant/
amsom, desom, Kannur District.] Petitioner

Pandari Veettil Vijayan, S/o. Ammalu Amma, aged 56 years,]
Taliparamba amsom, Trichambaram desom, Taliparamba] Respondent/
Taluk.] Respondent

On appeal from the Order of Rent Control Court ,(Munsiff, Taliparamba)
dated 29.08.2022 and made in

R.C.P Nos. 63/2013

Mylanjikkal Kalathil Shahul Hameed, S/o. Abdulla Haji,]
aged 68 years, near Western India Cottons, Pappinissery] Petitioner
amsom, desom, Kannur District.

Vs

Pandari Veettil Vijayan, S/o. Ammalu Amma, aged 56 years,]
Taliparamba amsom, Trichambaram desom, Taliparamba] Respondent.
Taluk.]
]

This appeal coming on the 23rd day of February 2026 for final hearing
before me in the presence of Sri. Martin Thomas, Advocate for Appellant,
S/Sri. V.V. Sivaprakash and P.M. Nandakumar, Advocates for respondent ;and
having stood over for consideration till this day; the court passed the following.

J U D G M E N T

This Rent Control Appeal is directed against the order passed by the Rent
Control Court, Taliparamba, in RCP No. 63/2013. As per the impugned order,
the Rent Control Court dismissed the application filed by the landlord under
Section 5 of the Kerala Buildings (Lease and Rent Control) Act, 1965. This
appeal is filed challenging the said order passed by the Rent Control Court.

2. The case of the landlord in brief is as follows:-

The petition schedule building was leased to the tenant for a monthly rent of Rs.800/- per month, as per kacheet dated 31.12.1993. The petition schedule building is situated near Taliparamba town and is close to the National Highway. The Higher Secondary School, Head Post Office, Cinema Theatre, Federal Bank, and shopping malls are situated near the petition schedule building. The rent, which was fixed in the year 1993, has become extremely meagre. It is further contended that similar buildings situated near the petition schedule room are fetching a rent of more than Rs.10,000/- per month. Therefore, the appellant landlord seeks a direction to fix Rs.6,000/- per month as the fair rent.

3. The tenant has entered appearance and filed a detailed counter affidavit. The tenant had paid an amount of Rs.50,000/- as deposit. The petition schedule building is situated near a pocket road starting from the National Highway to Trichambaram. The Tasty Food Hotel, which is conducted near the petition schedule building, is fetching a monthly rent of Rs.1,900/-. The said room is having more facilities when compared with the petition schedule room. Another room near the petition schedule building is Prathyuksha Book Shop. The same is leased on a monthly rent of Rs.500/-. The Higher Secondary School, the Head Post Office, cinema theatre, temples, LIC office, shopping malls, etc. are situated 500 metres away from the petition schedule building. The petition schedule building is in a dilapidated condition due to old age. There are no parking facilities or toilet facilities in the petition schedule room. There is a toddy shop situated near the petition schedule building. The respondent is depending on the income derived from the petition schedule building. Considering the nature and location of the property, no grounds are made out to enhance the fair rent. Hence the tenant prayed for the dismissal of the RCP.

4. On the side of the appellant landlord, PW1 and PW2 were examined. Exhibits A1 to A11 were marked. The tenant was examined as RW1. Exhibit C1 and Exhibit C2 are the commission reports.

5. Heard both sides. Perused the trial court records.

6. The points that arise for consideration are as follows:

1. *Whether the landlord herein is entitled to fixation of fair rent under Section 5 of the Kerala Buildings (Lease and Rent Control) Act, 1965?*
2. *Whether the impugned order passed by the Rent Control Court rejecting the application for fixation of fair rent suffers from any illegality or impropriety?*
3. *What relief and order has to be passed?*

7. **Point No.1 to 3:-** The landlord has claimed fair rent to the tune of Rs.6,000 per month. The appellant/landlord, contends that the petition schedule building is situated in a commercially prominent area and therefore the rate of rent fixed at Rs.800 per month in the year 1993 has become extremely meagre. The tenant, on the other hand, submits that the petition schedule building is in a dilapidated condition and the current rate of rent is the reasonable rate which would be fetched in the instant case.

8. I have considered the rival contentions advanced by both the parties. The first issue to be considered is whether the petition schedule building is situated in a commercially prominent area. In the instant case, Exhibit C1 report of the Advocate Commissioner states that the petition schedule building is situated just 10 metres near the National Highway. The Advocate Commissioner further notes that Taliparamba Municipal Bus Stand, Taluk Office, Mini Civil Station, Muthedath Higher Secondary School, banks and religious institutions are situated within a radius of 500 metres. The Advocate Commissioner further states that within 50 metres from the petition schedule building near Classic theatre, State Bank of India, Taliparamba town branch is also situated. He further notes in Exhibit C1 report that the National Highway is situated just 10 metres near the petition schedule building. The aforesaid factors would clearly show that the petition schedule building is situated near a commercially

prominent area. Moreover, the rent in the instant case was fixed in the year 1993. The present rent of Rs.800/- per month is meagre by all standards. It is common knowledge that the cost of living is increasing and the value of money has diminished considerably. Consequently, the cost of all products has risen. This is a matter of judicial notice. Therefore, the rent of the petition schedule building cannot remain static under these circumstances. The petitioner is therefore entitled to fixation of fair rent.

9. The Hon'ble High Court of Kerala in ***Edger Ferus v. Abraham Ittycheria (2004(1) KLT 767)*** laid down the factors that can be taken into consideration for fixing fair rent. These include:-

1. *the inflation and resultant reduction in the purchasing power of money,*
2. *variation in the cost of living index in the area since commencement of the lease,*
3. *demand for accommodation and availability of the building in the locality,*
4. *prevailing rent in the locality for the similar accommodation,*
5. *the type of construction,*
6. *the general or special amenities provided in the building,*
7. *whether residential or non residential,*
8. *Annual rental value of the building at the time of filing application for fair rent,*
9. *revision or fresh imposition of municipal taxes, cess rate in respect of other increase in the charge of electricity or water consumption by the tenant and also by the landlord,*
10. *increase in account of repairs are to be taken into account.*

10. This Court has already come to the conclusion that the petition schedule building is situated in a commercially prominent area. Now the next question to be considered is what would be the fair rent of the petition schedule

building. Merely because the petition schedule building is situated near the highway, this Court cannot fix the rent on some guess or estimation. The Hon'ble Supreme Court, in *Muhammad Ahmad vs. Atmaram Chauhan*, AIR 2011 SC 1940, has cautioned the courts that care must be taken to ensure that fixation of fair rent should not result in a bonanza for the landlord.

11. In the instant case, the Advocate Commissioner in his report specifically stated that the petition schedule building room is situated in a two-storied concrete building. The petition room is functioning at the south-western end of the building complex. The tenant therein is conducting a business dealing with the sale of plumbing and sanitary hardware under the name and style "Classic Hardwares". The petition schedule room is of the size 3 metres width and 9.50 metres length. Further, in Exhibit C2 report, the Advocate Commissioner had specifically noted that the petition schedule building complex does not have any parking facilities. He had further noted that there are no bathroom or toilet facilities in the building. This is an important circumstance which should be taken into consideration while fixing the fair rent. In Exhibit C1 report, the Advocate Commissioner further notes that there is no space for parking in front of the petition schedule building complex. He further notes that there is also no space for the loading and unloading of materials on the road. The tar road in front of the petition schedule building complex is just 3.50 metres in width. The Advocate Commissioner further reports that the building is in a dilapidated condition.

12. From the above, it is evident that the petition schedule building is in a dilapidated condition and the basic amenities such as toilet facilities, bathroom, and parking facilities are not available in the building. So it is evident that the rent would not be on the higher side as claimed by the petitioner.

13. The learned counsel for the appellant landlord has relied upon Exhibits A5 to A11, to show the comparable rents of other rooms in the petition-schedule building complex. Exhibits A5 to A11 would not support the case of the landlord. Exhibits A5 to A11 would show that other rooms in the petition-

schedule building complex were leased to other tenants for amounts ranging from Rs.2,000/- to Rs.4,000/-. Exhibit A5 is an agreement executed with regard to the leasing of Room No.TMC XIII/715 on 16.10.2009 for an amount of Rs.2,000/- per month for operating United Pharma. Exhibit A6 shows that Room No. TMC XIII/714 was leased to United Pharma on 24.09.2018. Exhibit A8 would show that Room No.TMC XI/3920 was leased for an amount of Rs.1,800/- per month. Exhibit A11 would show that one room was leased to United Pharma for an amount of Rs.2,500/- from 12.01.2018 onwards.

14. However, the petitioner has not demonstrated that the rooms mentioned in Exhibits A5 to A11 are of the same dimensions as the petition-schedule building, which, according to the report of the Advocate Commissioner, is only of 3 metres in width and 9.50 metres in length. The amenities of these rooms would admittedly be similar to the petition-schedule building, as they are situated in the same building complex. However, there is no evidence before this Court to conclude that the rooms which are leased in the same building complex would fetch Rs.6,000/- per month as claimed by the landlord. Therefore, the claim of Rs.6,000/- per month cannot be accepted. Therefore, I am of the view that Exhibit A10 cannot be taken as the prevalent rent in the locality.

15. Considering the location, nature, and amenities, I am of the view that the fair rent of Rs.800/- per month is not commensurate with the prevailing rent of the locality for similar buildings. Exhibits A5 to A11 would show that the prevailing rent in other buildings is from Rs.2,000/- to Rs.4,000/- per month. I am of the view that the fair rent of Rs.800/-, which was fixed in the year 1993, requires revision. Considering the inflation and resultant reduction in purchasing power, variation in cost of living index, and also considering the amenities provided in the building and the prevailing rate of rent as evident from Exhibits A5 to A11, I am of the view that the fair rent can be reasonably fixed at the rate of Rs.2,000/- per month.

In the result, the Rent Control Appeal is partly allowed as follows:

- 1. The order passed by the Rent Control Court in RCP No. 63/2013 is set aside.*
- 2. The fair rent of the petition-schedule building is fixed at Rs.2,000/- per month from the date of the Rent Control Petition.*
- 3. The parties shall bear their respective costs.*

(Dictated to the Confidential Assistant, typed by her directly into the computer, corrected and pronounced by me in open court, on the 18th day of March, 2026.)

sd/-

RENT CONTROL APPELLATE AUTHORITY
(ADDITIONAL DISTRICT JUDGE-IV)

APPENDIX: Nil

sd/-

RENT CONTROL APPELLATE AUTHORITY
(ADDITIONAL DISTRICT JUDGE-IV)

sk/-

Fair/ Copy of Judgment
in RCA 15/.2023

dated;-18-03-2026