

IN THE COURT OF THE RENT CONTROL APPELLATE AUTHORITY
ADDL. DISTRICT JUDGE - IV, THALASSERY

(Present:-Sri. Vimal. J, Additional District Judge IV)

Thursday, the 14th day of August, 2024/ 24th Sravana, 1946

I.A.No. 3/2024 in R.C.A. No. 30/2024

Chathan Kuzhakkal Sebastian, S/o. Ulahannan, aged 67	]	
years, business, residing at Chathan Kuzhakkal House,	]	Petitioners/
Vilamana amsom, desom, P.O. perinkai, Thalassery	]	Appellants
Taluk Pin 670706		

Vs.

Kunnel Alex@ Alan. K, Jose, S/o. Joseph. K.A, aged 40	]	
years, clerk, residing at kunnel House, P.O,	]	Respondent/
Manakkadavu, Via. Ulikkal Pin-670705	]	Respondent.

Petition filed under Order 41 of CPC .

This petition coming on this day for hearing before me in the presence of S/Sri. John Joseph and Athira Santhosh Advocates for the Petitioner; Sri. M.K. Anil Kumar, Advocate for respondent, the court passed the following.

ORDER

This is an application filed to stay the execution of the order dated 21.11.2023 in RCP No.35/2020 on the file of Rent Control Court(Munsiff), Taliparamba.

2. The petitioner submits that he has a fair chance of succeeding in the appeal and the landlord is taking hectic steps to execute the order of eviction. The petitioner further submitted that if he is evicted from the petition schedule building, he would be put to great hardship and suffering.

3. Further the learned counsel for the petitioner submits that the fair rent fixed by the Rent Control Court cannot be accepted for the reason that the same has been decided in contravention of the specific stipulation contained in Ext.P1 lease agreement. Therefore I am of the view that petitioner has succeeded in showing a prima facie case in his favour. How the respondent submits that the

appellant is not paying even admitted arrears of rent from 2023 June onwards. Therefore I am of the view that a reasonable condition can be imposed while granting the stay.

4. In **Abdul Razak P M v. K C Thomas and Others (2022 (4) KHC 260)**, the Hon'ble High Court held as follows.

"In the instant case, R.C.A.No.57 of 2021 pending before the Rent Control Appellate Authority is one filed by the tenant under Section 18(1)(b) of the Act, against Ext.P4 order passed by the Rent Control Court in R.C.P.No.211 of 2019, under Section 12(3) of the Act. The said appeal is one filed under Section 18(1)(b) of the Act against an order made by the Rent Control Court on an application made by the landlord under Section 11. When the obligation cast under Section 12(1) is exclusively confined to an application for eviction filed under Section 11 and to an appeal filed challenging an order passed on such an application, such an obligation cannot be extended for prosecuting an appeal instituted against an order passed by the Rent Control Court under Section 12(3) of the Act. The obligation cast under Section 12(1) of the Act cannot be extended by the Appellate Authority for consideration of an interlocutory application for stay filed in such an appeal, for granting stay of the order passed by the Rent Control Court under Section 12(3) of the Act. It would be certainly open to the Appellate Authority to impose any reasonable condition, considering the facts and circumstances of the case, for granting an order of stay, in case the appellant-tenant has made out a prima facie case for such an interim order.

By Ext.P5 order in I.A.No.2 of 2021 in R.C.A.No.57 of 2021, the Rent Control Appellate Authority allowed that interlocutory application and stayed all further proceedings pursuant to Ext.P4 order dated 01.10.2021 of the Rent Control Court in R.C.P.No.211 of 2019, on condition that, the appellant-tenant deposits the admitted arrears of rent as ordered by the court below on or before 07.04.2022 and also continue to pay admitted rent for the future months, till the disposal of that appeal. When the obligation cast under Section 12(1) is exclu-

sively confined to an application for eviction filed under Section 11 and to an appeal filed challenging an order passed on such an application, such an obligation cannot be extended for prosecuting an appeal instituted against an order passed by the Rent Control Court under Section 12(3) of the Act. Therefore, the Appellate Authority committed a manifest error in extending the obligation cast under Section 12(1) of the Act, for consideration of an interlocutory application for stay filed in the appeal, for granting stay of Ext.P4 order passed by the Rent Control Court under Section 12(3) of the Act. It is for the Appellate Authority to impose any reasonable condition, considering the facts and circumstances of the case, for granting an order of stay, in case the appellant-tenant has made out a prima facie case for such an interim order.”

5. From the above judicial pronouncement, the Hon'ble High Court has held that if the petitioner succeeds in proving the prima facie case, the Appellate Authority can grant interim stay by imposing reasonable conditions.

6. For the aforementioned reasons order passed in RCP No.35/2020 dated 21.11.2023 passed by the Rent Control Court (Munsiff), Taliparamba is stayed until further orders provided the petitioner deposits atleast 50% of the admitted arrears of rent.

In the result,

1. The petitioner shall deposit 50% of the admitted arrears of rent.
2. In case the petitioner deposit the said amount, order in RCP No.35/2020 on the file of the Rent Control Munsiff Court, Taliparamba is stayed until further orders.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me, in open Court, on this the 14th day of August, 2024.)