

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

Present:-Sri. Vimal. J, Addl. District Judge-IV.
Wednesday the 08th day of April, 2026/ 18th Chaitra 1948

RENT CONTROL APPEAL No. 151/2024

Kakkoth Saseendran, S/o Balan, Aged 61 Years,] Appellant/
Benzedr Tailors, M.S Road, Thalassery.] Petitioner

Vs

1. Saifudeen, S/o Usman, Aged 43 Years,]
Marjan, P.O. Chirakkara, Thalassery, 670104.] Respondents/
2. Ponnambath Kunnummal Sudhakaran, S/o Damodaran] Respondent
Aged 54 Years, Benzer Tailors, M.S.Road, Thalassery.]

On appeal from the Order of Rent Control Court ,(Munsiff),
Thalassery dated 05.10.2024 and made in

R.C.P Nos. 158/2018

- 1 Saifudeen, S/o Usman, Aged 37 Years, Marjan, P.O.] Petitioner
Chirakkara, Thalassery, 670104.]

Vs

- 2 Kakkoth Saseendran, S/o Balan, Aged 55 Yeaqrs,]
Benzedr Tailors, M.S Road, Thalassery.] Respondent.
- 3 Ponnambath Kunnummal Sudhakaran, S/o Damodaran
Aged 48 Years, Benzer Tailors, M.S.Road, Thalassery.

This appeal coming on the 23rd day of March 2026 for final hearing before me in the presence of Sri. K.P.Hareendran, Advocate for Appellant, Sri. Amal.S, Advocate for respondent No. 1; Respondent No.2 called absent and having stood over for consideration till this day; the court passed the following.

J U D G M E N T

This appeal is filed challenging the order passed by the Rent Control Court Thalassery, in RCP No. 158/2018 dated 05.10.2024. As per the impugned order, the Rent Control Court fixed the fair rent of the petition schedule building at Rs.4,000 per month with effect from 25.10.2018. There was also a direction for enhancement of rent at the rate of 15% every 3 years.

2. The case of the landlord in brief is as follows: The petition schedule building was leased to the tenant on 01.04.2006 by the previous landlord. The

petition schedule building and other properties were purchased by the current landlord as per Assignment Deed No.227/2016 of S.R.O, Thalassery. Thereafter, the tenant used to pay the rent to the present landlord. The current rate of rent is Rs.500 per month. The petition schedule building is situated in a commercially prominent area. The respondent tenant is earning considerable income from the petition schedule building. The petition schedule building is situated in Chirakkara at the heart of Thalassery town. Prominent institutions like schools, hospitals, and petrol pumps are situated within a radius of 50 to 100 meters. The landlord had sent a registered notice dated 05.05.2016 for enhancement of rent. However, the tenant did not agree for the enhancement of rent. Hence, considering the prominence of the locality and the prevalent rate of rent, it is prayed that the fair rent of the petition schedule building may be fixed as Rs.5,000 per month.

3. Respondent No.1 entered appearance and filed a detailed counter-affidavit with the following contentions:

The landlord-tenant relationship is admitted. He has also admitted that he is currently paying Rs.500/- as monthly rent. The averment that the petition schedule building is situated in commercial prominent location at Thalassery town is denied. The total area of the petition schedule building is only 90 square metres. The petition schedule building does not have any amenities other than electricity. The demand of Rs.5,000/- as fair rent is highly exorbitant and unreasonable. The application has been filed only as a pretext to evict the tenant from the petition schedule building. The petitioner has no other source of income apart from that earned from the petition schedule building. Hence, the tenant prayed for the dismissal of the application.

4. The landlord was examined as PW1. Exhibits A1 and A2 were marked on the side of the landlord. Exhibit C1 was also marked. Respondent No. 1 tenant was examined as RW1. Exhibits B1 to B5 were marked.

5. Heard both sides. Perused trial court records.

6. The following are the points that arise for consideration:-

1. *Whether the fixation of fair rent at rate of Rs.4,000/- per month is legal and justified ?*
2. *Whether the direction for periodical enhancement of rent at the rate of 15% once in three years is justified?*
3. *Relief or order as to costs?*

7. **Point Nos.1 to 3:-** The only question to be considered is whether the fixation of fair rent at the rate of Rs.4,000/- per month is reasonable. It is the case of the landlord that the petition schedule building is situated in Chirakkara town and is located in a commercially prominent area. Per contra, the tenant contends that the petition schedule building is only 90 square meters and there are no amenities apart from electricity. Therefore, it is contended that the enhancement sought by the petitioner is extremely exorbitant.

8. I have considered the rival contentions Exhibit C1 is the Advocate Commissioner's report. The Advocate Commissioner's report categorically shows that the petition schedule building is situated at Chirakkara town, Thalassery. The petition schedule building is situated near Ayyalath School, Thalassery, Unity Hospital, Royal Enfield Showroom and Maruti Suzuki Nexa Showroom which are situated within a radius of 300 meters from the petition schedule building. The petition schedule building also lies approximately 250 meters away from north of Indian Oil Petrol Pump, situated near the Thalassery-Coorg Road. From the above, it is evident that the petition schedule building is situated in a commercially prominent area. Hence, the rent of Rs.500/- per month is extremely meagre considering the increase in the cost of living and the importance of the locality. Therefore the payment Rs.500/- as rent is meagre by all standards and the same cannot be upheld.

9. The next question to be considered is what is the prevailing rate of rent in the locality. The Advocate Commissioner has specifically reported that a person named Muthalib runs a hotel which is situated about 50 metres away from the petition schedule building and is paying a rent of Rs.5,000/- per month.

The Advocate Commissioner has also noted that a stationery shop is being operated near the petition schedule building. The said room was leased out to the tenant for a monthly rent of Rs.2,500/- per month. The Advocate commissioner further reported that the above rooms are of similar dimensions as the petition schedule building.

10. In the above factual background, it cannot be said that the fixation of rent at Rs.4,000/- per month is unreasonable, arbitrary, or devoid of supporting material. Considering the commercial prominence of the locality, prevailing rent in the locality for similar accommodation, inflation and resultant reduction in purchasing power, I am of the view that Rs. 4000/- per month is reasonable. Therefore, the fixation of fair rent at Rs.4,000 per month is justified and does not warrant interference.

11. Now the question to be considered is whether the fixation of fair rent from the date of rent control petition is justified. In this context, it is useful to refer to the decision of the Division Bench of the Hon'ble High Court of Kerala in *Francis P.J. v. C.D. Jose 2025 KHC OnLine 357*, wherein, after relying on the earlier decisions in *Thomas M. Joshua v. Church of South India Trust Association [2019 (3) KHC 316]* and *Kadar Pillai K.S. v. M/s. Goven Travels [2014 (4) KLT 593]*, it was held that if the Rent Control Court determines fair rent on the basis of material evidence showing the prevailing rent of similar buildings at the time of passing the order, the fair rent must be fixed from the date of the order. If, however, the determination of fair rent is based on material showing the prevailing rent at the time of institution of the rent control petition, the fair rent is liable to be fixed from the date of institution of the petition.

12. In the present case, the RCP was filed in the year 2018. The Rent Control Court fixed the fair rent of the petition schedule building mainly relying upon Exhibit C1 Advocate Commissioner's report, dated 27.07.2022. The landlord has not produced any katchits or lease deeds to establish the prevailing rate of rent in the locality as on the date of filing of the petition. Therefore, there is no evidence on record whatsoever to indicate the prevailing rate of rent for

comparable buildings with similar amenities as on the date of institution of the Rent Control Petition. Admittedly, the commission report was filed nearly four years after the filing of the petition. In such circumstances, the fixation of fair rent with effect from the date of the petition cannot be sustained. Hence, the order passed by the Rent Control Court fixing fair rent from the date of the petition is liable to be set aside. In such circumstance, there can be a direction fixing fair rent from the date of order in RCP.

13. In ***Rahul v. K. Sudeesh*, 2023 KHC 329**, the Full Bench of the Hon'ble High Court of Kerala held that the Rent Control Court is empowered to grant a periodical increase in the fair rent fixed under Section 5(1) of the Act, at a reasonable rate ranging from 5% to 10%, at appropriate intervals. The Court approved the dictum laid down by the Division Bench in ***Kadar Pillai K. S. v. Goven Travels*, 2014 (4) KHC 535**, and clarified that such periodical increase cannot be granted in a routine manner. It was further held that the burden lies on the landlord to establish, before the Rent Control Court the existence of relevant factors justifying such periodical increase. The Full Bench further observed that factors such as the general growth of the city, prevailing inflationary trends in the economy, and the increase in land value constitute valid grounds for granting a periodical increase in fair rent.

14. In the present case, the Rent Control Court has granted periodical enhancement at the rate of 15% once in every three years, without assigning any reasons or advertent to the existence of relevant factors such as substantial development of the locality, marked escalation in land value, or other comparable circumstances warranting such increase. The landlord has also not produced any material to prove the special circumstances justifying enhancement at the said rate. In the absence of such materials, the enhancement at the rate of 15% every three years is excessive and cannot be sustained. However, having regard to the general inflationary trends and the gradual increase in rental values, a reasonable periodical enhancement can be granted. Accordingly, the order of the Rent Control Court is liable to be modified to the

extent that the periodical enhancement of fair rent shall be at the rate of 10% once in every three years, instead of 15%.

15. In view of the above discussion, I am of the considered view that the order of the Rent Control Court fixing the fair rent at Rs.4,000/- does not call for any interference. However, the fixation of fair rent from the date of the petition is not justified. In light of the evidence on record and in view of the decision of the Hon'ble High Court of Kerala, the fair rent in the present case shall be made effective from the date of the order of the Rent Control Court, and not from the date of institution of the RCP. Hence these points are answered accordingly.

16. **Point No.3:-** In view of the aforesaid findings, the appeal is liable to be partly allowed with respect to the date of fixation of fair rent and periodical enhancement.

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

1. *The fair rent of the petition schedule building at the rate of Rs.4,000/- per month fixed by the Rent Control Court, Thalassery is hereby upheld.*
2. *The fair rent of the petition schedule building is fixed from the date of order in RCP No.158/2018 ie 05.10.2024.*
3. *There shall be a periodic enhancement of the said rent at the rate of 10% every 3 years.*

(Dictated to the confidential assistant, transcribed and typed by her, corrected and pronounced by me, in open court, on this the 8th day of April, 2026)

sd/-

RENT CONTROL APPELLATE AUTHORITY
(ADDITIONAL DISTRICT JUDGE-IV)

sk/-

Fair/ Copy of Judgment
in RCA 151/.2024
dated :-08-04-2026