

IN THE COURT OF THE RENT CONTROL, KANNUR

Present: Sri.Manikandan.C.K, Principal Munsiff, Kannur,
Wednesday, the 25th day of March, 2026 (4th Chaithra, 1948)

RENT CONTROL PETITION No.127/2024

1. Valiya Puthiyakath Subaida, W/o.Athodath]
Parakkandy Abdul Khader, aged 50 years,]
Parakkandy House, Valiyannur amsom, Varam]
desom, P.O.Varam, Kannur, 670594,]
Mob:9497890327.] Petitioners
2. A.P.Rizwana, D/o.Valiya Puthiyakath Subaida,]
aged 23 years, Parakkandy House, Valiyannur]
amsom, Varam desom, P.O.Varam, Kannur,]
670594.]

Vs.

Pallikkachalil Muhsin, S/o.Abdulla, aged 60]
years, Palliakkachalil Mubeenas, P.O.Kanhirode,] Respondent
Kanhirode amsom, desom, Kannur, 670592.]

This petition coming on the 23rd day of March, 2026 for hearing before me in the presence of S/Sri.K.K.Balaram, K.Babu, K.O.Prathap Nambiar, M.R.Hareesh, Abhijai.E.M, Anjali.C and Muhammed Sinan.K.P, Advocates for the petitioners; S/Sri.Vijith.N.P, Farsha Musthafa and Aslam Pareth, Advocates for respondent and having stood over for consideration till this day; the court passed the following:

ORDER

This is a petition filed under section 11(3) of the Kerala Buildings (Lease and Rent Control) Act (hereinafter referred as 'the Act').

2. Gist of the averments in the petition is as follows:- The petition schedule building belongs to the petitioners as per gift deed No.1488/2003 of SRO, Kannur. The respondent is the tenant in occupation of the said petition schedule building under the petitioners on a monthly rent of Rs.4,500/- per month as per kacheet dated 26-10-2016 executed by the respondent in favour of the 2nd petitioner. As per the agreement, 10% increase in rent is to be made annually. However, the current rent paid by the respondent is only Rs.6,510/- monthly. Since the original of the kacheet is misplaced only the available photocopy is produced. The original will be produced once it is traced out. At present the petitioners are residing in a house constructed in 3 cents of land given by the government using Rs.2,00,000/- provided by the government. The building is extremely small which is adversely affecting the marriage proposals for the 2nd petitioner because of inadequate living conditions. There is no sufficient space to live even for the petitioners in the presently occupied building. So the petitioners will face too severe hardships to live along with the 2nd petitioner's husband after marriage in the house where they are residing now. The building occupied by the respondent in Varam town, in Kannur Corporation, have necessary facilities and amenities and is significantly big which is more suitable for the petitioners and the prospective husband of the 2nd petitioner. The location of the petition schedule building is also more convenient compared to their present residence in Mayyil Panchayath, which is a rural area. The petition schedule building is situated at Varam town in Kannur Corporation. So, the petitioners requested the respondent to surrender the vacant possession of the building for their residential purpose. The

petitioners bonafide needs to occupy the petition schedule building. The petition schedule building is required for the petitioners for their own use including the 2nd petitioner's future husband. The need of the petitioners is bonafide, genuine and urgent. The petitioners have no other vacant building in their possession for their residence other than the too small building presently occupied by the petitioners. The respondent has building near to the petition schedule building in his possession bearing Nos.CP14/414,439 and 406. Despite requests to surrender the vacant possession of the building for the petitioners bonafide need, the respondent is delaying the same raising one or other reasons. Hence, this Petition.

3. Gist of the averments in the counter statement filed by respondent is as follows:- This respondent denied the entire allegations and averments in the above matter except those that are admitted. This respondent admits the landlord-tenant relationship. However, specifically deny the rate of rent as stated in the petition. The present rate of rent is Rs.4500/- per month. The contention of the respondent that the need of future husband is an imaginary one, contingent and uncertain. There is no bonafide need for the petitioners. The need put forth by them not genuine or bonafide. Further contention of the respondent that the petitioners have other vacant building and quarters in their possession. At present the respondent is residing in the building. Even though, he enquired for the vacant building in the locality he could not find anyone. The very intention of the petitioners is to lease out the building to third parties for higher rent by evicting this respondent from the building. The petitioners demanded an enhanced rent of Rs.12,000/- for which this respondent was not willing. This is the reason for this petition

with false needs. Since there is no bonafide need in the petition the petition is liable to be dismissed with costs.

4. Following points arise for consideration:-

1. Whether the petition schedule building is bonafide required for the petitioners for their own use including the 2nd petitioner's future husband for residential purpose?
2. Whether the petitioners are in possession of another building in the same locality to satisfy the alleged bonafide need?
3. Whether the respondent is entitled to get protection under 2nd proviso to Section 11(3) of Act 2 of 1965?
4. Whether the petitioners are entitled to get an order of eviction of respondent?
5. What is the order as to costs?

5. The 2nd petitioner was examined as PW1. No documents marked from the side of the petitioners. The respondent was examined as RW1. No documents marked from the side of the respondent.

6. Heard both sides.

7. **Point No.1:-** The petitioners claim eviction of the respondent from the petition schedule building for their own use including the 2nd petitioner's future husband for their residential purpose and the need of the petitioners is bonafide, genuine and urgent. On the other hand, contention of the respondent is that the need of the future husband is an imaginary one, contingent and uncertain. Further contention of the respondent is that there is no bonafide need for the petitioners and the petitioners have other vacant

building and quarters in their possession. Further contention of the respondent is that at present he is residing in the petition schedule building and even though he enquired for the vacant building in the locality, he could not find the same. Further contention of the respondent is that the intention of the petitioners is only to lease out the building to third parties for higher rent by evicting him from the petition schedule building. Further contention of the respondent is that the petitioners had demanded an enhanced rent of Rs.12,000/- for which the respondent was not willing and the same is the reason behind the petition filed.

8. PW1, the 2nd petitioner adduced oral evidence that the petition schedule building needed for their own purpose. It has come out in evidence that PW1 is an unmarried lady. She had deposed in tune with the averments in the petition. In the proof affidavit, she has categorically stated that the petitioners are residing in a small house which was constructed in a 3 cents of property given by the government. She further deposed that there is no facility to reside in the said house and same is affecting her marriage proposal.

9. During cross examination, PW1 deposed that she has been residing in a house at a place called Mayyil along with her mother, sister and sisters children and she also deposed that there are two rooms in the said house. She further deposed that she had no own room in the said house. PW1 further deposed that there are two rooms in the petition schedule building. The learned counsel for the respondent put a suggestion to PW1 and she replied that “ഞാൻ ഇപ്പോൾ താമസിക്കുന്ന വീടിനേക്കാളും വലുപ്പം കുറഞ്ഞതാണ് ഹരജി പട്ടിക മുറി എന്ന് പറഞ്ഞാൽ ശരിയല്ല”.

10. The respondent was examined as RW1. He has deposed in tune with the averments in the counter statement. He deposed during cross examination that the petitioners have been residing at a place called Mayyil and petition schedule building situates at a place called Varam. He had further deposed that there are two rooms in the petition schedule building and also deposed that a hall, kitchen and toilet are also in the petition schedule building. He further deposed that the 2nd petitioner is unmarried lady.

11. The learned counsel for the petitioners put a question to RW1 and he replied that “ഈ ഹരജിയിൽ ഹരജി പട്ടിക മുറി രണ്ടാം ഹരജിക്കാരിക്ക് വിവാഹം കഴിച്ച് താമസിക്കാൻ ആവശ്യം ഉണ്ട് എന്ന് പറഞ്ഞിട്ടാണ് കൊടുത്തത്? അത് എനിക്കറിയില്ല. രണ്ടാം ഹരജിക്കാരി കല്യാണം കഴിച്ച് ഭർത്താവിനോടൊപ്പം ഹരജി പട്ടിക എടുപ്പിൽ താമസിക്കുന്നതിൽ എനിക്ക് വിരോധം ഒന്നും ഇല്ലല്ലോ? എന്നോട് പറഞ്ഞത് വാടക കൂട്ടി തരണമെന്നാണ് “. RW1 also deposed to the suggestion made by the counsel for the petitioners that “മയിൽ ഉള്ള വീട്ടിൽ ഹരജിക്കാരും ഒന്നാം ഹരജിക്കാരിയുടെ ആദ്യ ഭർത്താവിന്റെ മക്കളും ആണ് താമസിക്കുന്നത് എന്ന് പറഞ്ഞാൽ എനിക്കതിനെപ്പറ്റി അറിയില്ല. മയിൽ ഉള്ള വീട്ടിൽ PW1-ന് പ്രത്യേകം റൂം ഇല്ല എന്ന് പറഞ്ഞാൽ എനിക്കതിനെപ്പറ്റി അറിയില്ല”.

12. From the evidence of PW1 and RW1, it can be seen that PW1 is an unmarried lady. PW1 categorically deposed before the court that she has been residing along with her mother, sister and sisters children in a house at place called Mayyil. According to PW1, the house at a place called Mayyil is smaller than the petition schedule building. PW1 also deposed that the facilities in the petition schedule building is higher than the facilities in the house at a place called Mayyil. These evidences of PW1 not specifically

challenged in cross examination. Even though PW1 was thoroughly cross examined by the learned counsel for the respondent, there is nothing to brought to disbelieve the evidence of PW1 with regard to the bonafide need. Even though the respondent took a contention that there are vacant rooms in the possession of the petitioners, there is no any other evidence adduced by the respondent to prove the same. The learned counsel for the respondent vehemently argued that the need alleged by the petitioners is an imaginary one and uncertain. The learned counsel for the respondent also argued that PW1 does not know the area of the petition schedule building and the rate of rent and therefore the bonafide need alleged by the petitioners is doubtful. The learned counsel for the petitioners argued that the petition schedule building is bigger than the house in which the petitioners are now residing and also argued that the facilities in the petition schedule room is higher than the facilities in the house at a place called Mayyil. Admittedly, the petition schedule building situates within the area of Kannur Corporation.

13. On the careful evaluation of the evidence of PW1, I have no hesitation to hold that the need projected by the petitioners that they need to occupy the petition schedule building for their own use including the 2nd petitioner's future husband is genuine and acceptable. It is pertinent to note that the need projected by the petitioners not only for the residence of petitioner No.2 along with her future husband. But also for the petitioners own use also. Therefore, I am of the view that the argument advanced by the learned counsel for the respondent that the need projected by the petitioners is uncertain cannot be accepted.

14. In **Jose .E.C Vs. V.Gopalakrishnan reported in 2023 KHC 9442**, it has been held that “*need put forward by the landlord has to be examined on the presumption that the same is genuine one, in the absence of any materials to the contra*”. In **N.L.Jose Vs. Faisal Raj and others reported in 2017 (2) KHC 464**, it has been held that “*the landlord is the sole arbiter of his own requirement and the suitability of the building is the prerogative of landlord and it has been further held that the law does not command the landlord to make his choice at the dictates of the tenant to protect his occupancy*”. On going through the oral evidence on PW1, there is nothing to doubt the bonafide need put forward by the PW1. In **Ammu K and others Vs. Nafeessa and other reported in 2015(5) KHC 718**, it has held that “*the need put forwarded by the landlord has to be examined on the presumption that the same is a genuine one, in the absence of any materials to contra*”. There are no other materials to hold that the need put forwarded by the petitioners is not genuine one.

15. In **Deep Chandra Juneja Vs. Lajwanti Kathuria reported in AIR 2008 (SC) 3095**, it has been held that “*while considering the bonafide need, Rent Control Court has only limited jurisdiction in assessing the need put forth by the petitioner*”. In **Saddalingamma Vs. Mamtha Shenoy reported in 2001 (2) RCR 539**, it has been held by Hon’ble Apex Court that “*a question to be asked by the court by placing himself in the place of landlord, whether in the given facts proved by materials on record the need to occupy the premises can be said to be natural, real, sincere and honest, if the answer is in the affirmative way, the need is bonafide*”. In **Sarala Ahuja Vs. United India Insurance Co.Ltd. Reported in 1988 (8) SCC 119**, it has

been held by Hon'ble Apex Court that "*when a landlord assert that he requires his building for his own occupation, the Rent Controller shall not proceed on the presumption that the requirement is not bonafide*". There is no any evidence to show that there are vacant house in the possession of the petitioners. When applying the dictum in the above judgments to the facts of this case, it can safely be concluded that the need put forth by the petitioners is bonafide.

16. There is no dispute that PW1 is the daughter of the petitioner No. 1 . In **Aboobacker C.K. Vs. K.P.Sreelatha Nambiar 2012 KHC 5100**, it was held that "*once, on the basis of materials on record, the landlord has succeeded in showing that the need to occupy the premises is natural, real, sincere and honest and not to evict the tenant from the said premises, so the landlord will certainly entitled for an order of eviction under section 11(3) subject to the first and second proviso to section 11(3) of the Act*". Moreover that the evidence of PW1 is sufficient to hold that the need put forwarded by the petitioner is bonafide, real, sincere and honest and not a ruse to evict the tenant. The contention of the respondent that the petitioners had demanded enhanced rent of Rs.12,000/- for which the respondent was not willing. There is no case for RW1 that the petitioners had demanded the enhanced rent by way of issuing written notice. Anyhow, the demand for higher rent on the side of the landlord cannot be held as wrong and same cannot be taken as to deny the bonafide need set up by the petitioners. So, this point is found in favour of the petitioners.

17. **Point No.2:-** The next question to be decided is that whether the respondent is entitled to get a protection of first proviso to section 11(3) of

the Act. Petitioners claimed that they have no other vacant suitable building in their possession. On the other hand, the case of the respondent is that petitioners are in possession of number of other vacant building and quarters in their possession. Though, the respondent had contended that the petitioners are in possession of the vacant building and quarters in their possession, no any documentary evidence produced by the respondent to prove the same.

18. In **Lalu Mathew Vs. Bino Alexander reported in 2023(7) KHC 407**, it was held that “*landlord has no obligation to plead that he/she does not have any other building of his/her own in the same city, town or village*”. In the present case on hand, the respondent failed to prove that petitioners or PW1 have any other vacant rooms or building in their possession. Since the respondent failed to prove that petitioner or PW1 have any other suitable vacant building in their possession, respondent is not entitled to get this proviso protection. Hence, this point is found against the respondent.

19. **Point No.3:-** Since the petition schedule building is a residential building, there is no question of deriving income from the building and shifting the business in other vacant building. Hence this point does not arise for consideration.

20. **Point No.4:-** In view of the finding in the above points, I find that the petitioners are entitled to get an order of eviction of respondent from the petition schedule building under section 11(3) of the Act.

21. **Point No.5:-** From the facts and circumstances of the case, petitioners are entitled to get costs of the proceedings from the respondent.

In the result,

The RCP is allowed as follows:-

1. The respondent is directed to put the petitioners in vacant possession of the petition schedule building within one month from the date of this order under section 11(3) of the Act.
2. The respondent is also directed to pay costs of the proceedings to the petitioners.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 25th day of March, 2026).

Sd/-
Rent Control Court
(Principal Munsiff)

Petitioner's Witnesses:-

PW1 : A.P.Rizwana

Respondent's Witnesses:-

RW1 : Muhsin.P.C.

Petitioner's Exhibits:- Nil.

Respondent's Exhibits:- Nil.

Sd/-
Rent Control Court
(Principal Munsiff)

// True copy//

Rent Control Court
(Principal Munsiff)

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Fair/Spare Order in RCP.127/2024
Dated: 25.03.2026.