

IN THE COURT OF THE RENT CONTROL COURT (MUNSIFF), PAYYANNUR

Present: Smt. Greeshma.A.S, Munsiff, Payyanur
Monday, the 31st day of July 2023.

4th Sravana, 1945.

RENT CONTROL PETITION No.26 OF 2019, 28 OF 2019 AND 37 OF 2019

RENT CONTROL PETITION No.26 OF 2019

- | | | |
|---|---|-------------|
| 1. Puthalath Musthafa, 56 years, |] | |
| S/o.Muhammed Kunhi, Suharabi House, |] | |
| Biricheri, P.O.Trikkaripur, |] | |
| Trikkaripur South Village, Hosdurg Taluk. |] | |
| 2. Peedikayil Ibrahim Kutty, 49 years, |] | |
| S/o.Muhammed Kunhi, Suharabi House, |] | |
| Biricheri, P.O.Trikkaripur, |] | |
| Trikkaripur South Village, Hosdurg Taluk. |] | |
| 3. Udinoor Peedikiyil Abdul Majeed, 44 years, |] | |
| S/o.Muhammed Kunhi, Suharabi House, |] | |
| Biricheri, P.O.Trikkaripur, |] | Petitioners |
| Trikkaripur South Village, Hosdurg Taluk. |] | |
| 4. Udinoor Peedikayil Ismail, 40 years, |] | |
| S/o.Muhammed Kunhi, Suharabi House, |] | |
| Biricheri, P.O.Trikkaripur, |] | |
| Trikkaripur South Village, Hosdurg Taluk. |] | |
| 5. Udinoor Peedikayil Muhammed Sabir, 34 years, |] | |
| S/o.Muhammed Kunhi, Suharabi House, |] | |
| Biricheri, P.O.Trikkaripur, |] | |
| Trikkaripur South Village, Hosdurg Taluk. |] | |

Vs.

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| P.V.Padmanabhan, 55 years, S/o.Appu, Barber, |] | |
| Near Jasna Hospital, Keloth, Payyanur, Kannur Dt. |] | Respondent |

RENT CONTROL PETITION No.28 OF 2019

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|---|---|
| 1. Puthalath Musthafa, 56 years, |] |
| S/o.Muhammed Kunhi, Suharabi House, |] |
| Biricheri, P.O.Trikkaripur, |] |
| Trikkaripur South Village, Hosdurg Taluk. |] |
| 2. Peedikayil Ibrahim Kutty, 49 years, |] |
| S/o.Muhammed Kunhi, Suharabi House, |] |
| Biricheri, P.O.Trikkaripur, |] |

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| | Trikkaripur South Village, Hosdurg Taluk. |] | |
| 3. | Udinoor Peedikayil Abdul Majeed, 44 years, |] | |
| | S/o.Muhammed Kunhi, Suharabi House, |] | |
| | Biricheri, P.O.Trikkaripur, |] | Petitioners |
| | Trikkaripur South Village, Hosdurg Taluk. |] | |
| 4. | Udinoor Peedikayil Ismail, 40 years, |] | |
| | S/o.Muhammed Kunhi, Suharabi House, |] | |
| | Biricheri, P.O.Trikkaripur, |] | |
| | Trikkaripur South Village, Hosdurg Taluk. |] | |
| 5. | Udinoor Peedikayil Muhammed Sabir, 34 years, |] | |
| | S/o.Muhammed Kunhi, Suharabi House, |] | |
| | Biricheri, P.O.Trikkaripur, |] | |
| | Trikkaripur South Village, Hosdurg Taluk. |] | |

Vs.

- | | | | |
|--|--|---|------------|
| | Kuthirummal Abdul Salam, 60 years, |] | |
| | S/o.Assinar Haji, Kavvayi, Payyanur Amsom, |] | Respondent |
| | Kavvayi Desom, Payyanur, Kannur Dt. |] | |

RENT CONTROL PETITION No.37 OF 2019

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| | Puthalath Suharabi, 42 years, D/o.Muhammed |] | |
| | Kunhi, Suharabi House, Beericheri, P.O.Trikkaripur, |] | |
| | Trikkaripur South Village, Hosdurg Taluk. |] | Petitioner |

Vs.

- | | | | |
|--|---|---|------------|
| | Valappil Shamsudheen, 68 years, |] | |
| | S/o.Madambillath Muhammed, Zamzam Crockery, |] | Respondent |
| | Near Jasna Hospital, Keloth, Payyanur-670307. |] | |

This petition coming on the 25th day of July 2023 for hearing before me in the presence of Sri.E.K.Ramakrishnan, Advocate for the petitioners in all the petitions; and of S/Sri.M.V.Amaresan and T.Narayanan Nair, Advocates for the Respondents in RCP No.26 of 2019 and 28 of 2019; of Sri.T.V.Mohanan, Advocate for the respondent in RCP No.37 of 2019; Counsel for the respondents reported no instruction. Name called absent and set ex-parte; and having stood over to this day for consideration and the Court delivered the following:-

COMMON ORDER

RCP 26/2019, 28/2019 and 37/2019 are filed under section 11(4)(iv) of the Kerala Buildings (Lease and Rent Control) Act (herein after referred as 'the Act').

RCP 26/2019

2. **The petition averments in brief are as follows:-** Petition schedule room including building is belonged to petitioners' father Madambillath Muhammed Kunhi as per gift deed 1286/18 of SRO, Payyanur. As per the kachit dated 01.07.1984, the respondent has taken out the petition schedule room No. PMC XIV /609, for a monthly rent of 200/- for a period of three months. The enhanced rate of rent is ₹500/-.

3. Petition schedule property along with room bearing No.PMC XXX/260, 261, 200, 300, 304 are jointly owned by the petitioners and the petition schedule room bearing No. PMC XXX/301, 302 owned by the Madambillath Muhammed Kunhi. He transferred the petition schedule room to his sister Puthalath Suharabi as per deed No.2666/93 of SRO, Payyanur.

4. As per the gift deed No.1286/18 and deed No.2666/93 the petition schedule rooms are owned and enjoyed by the petitioners and sister Suharabi as a single plot.

5. The petition schedule rooms and other rooms are in a dilapidated condition. The petitioners and Suharabi want to demolish the said rooms and construct a building in a modern style and they have got

sufficient fund to start the business. The plan of the proposed building has been notified and granted to Payyanur Municipality and building permit No. E1-BA(234304)/2019. It is necessary to demolish the petition schedule rooms and construct a new building there. On 05.09.2019, the 4th petitioner requested the respondent to vacate the petition schedule room. But he is not ready for the same. Hence the RCP is filed.

RCP 28/2019

6. **The petition averments in brief are as follows:-** Petition schedule room including building is belonged to petitioners' father Madambillath Muhammed Kunhi as per gift deed 1286/18 of SRO, Payyanur. As per the kachit dated 01.01.2018, the respondent has taken out the petition schedule room for a monthly rent of ₹1,650/- for a period of eleven months. From January 2018 onwards the respondent has never opened the petition schedule room nor conducted any business in the petition schedule room. Now the petition schedule room is closed for more than one year and the rent arrears is from 2019 May onwards.

7. Petition schedule property along with room bearing No.PMC XXX/297, 299, 300, 304 are jointly owned by the petitioners and the petition schedule room bearing No. PMC XXX/301, 302 owned by the Madambillath Muhammed Kunhi. He transferred the petition schedule room to his sister Puthalath Suharabi as per deed No.2666/93 of SRO, Payyanur.

8. As per the gift deed No.1286/18 and deed No.2666/93 the petition schedule rooms are owned and enjoyed by the petitioners and sister

Suharabi as a single plot.

9. The petition schedule rooms and other rooms are in a dilapidated condition. The petitioners and Suharabi want to demolish the said rooms and construct a building in a modern style and they have got sufficient fund to start the business. The plan of the proposed building has been notified and granted to Payyanur Municipality and building permit No. E1-BA(234304)/2019. It is necessary to demolish the petition schedule rooms and construct a new building there. On 05.09.2019, the 4th petitioner requested the respondent to vacate the petition schedule rooms. But he is not ready for the same. Hence the RCP is filed.

RCP 37/2019

10. **The petition averments in brief are as follows:-** Petition schedule room including building is belonged to petitioner's father Madambillath Muhammed Kunhi as per gift deed 2666/1993 of SRO, Payyanur. As per the kachit dated 04.02.2015, the respondent has taken out the petition schedule room (old No.PMC XXX/257) for a monthly rent of ₹1,500/- for a period of eleven months. Now the present rate of rent is ₹3,700/-.

11. Petition schedule property along with room bearing No.PMC XXX/260, 261, 297, 299, 300 and 304 are jointly owned by the brothers of the petitioners.

12. As per the gift deed No.1286/18 the petition schedule rooms are owned and enjoyed by the petitioner and her brothers as a single plot.

13. The petition schedule rooms and other rooms are in a dilapidated condition. The petitioner and her brothers want to demolish the said rooms and construct a building in a modern style and they have got sufficient fund to start the business. The plan of the proposed building has been notified and granted to Payyanur Municipality and building permit No. E1-BA(234304)/2019. It is necessary to demolish the petition schedule rooms and construct a new building there. On 05.09.2019, the 4th petitioner requested the respondent to vacate the petition schedule rooms. But he is not ready for the same. Hence the RCP is filed.

14. Joint trial was ordered vide order in IA 02/2021 in all petitions. Notice served to the respondents and they appeared. When the case was posted for evidence, counsel for the respondents reported no instruction. Name called and set ex-parte.

15. The 1st petitioner is examined as PW1. PW1 filed proof affidavit in lieu of examination in chief and documents produced by him were marked as Exts.A1, A2 and Ext.C1. Ext.A1 is the building plan and permit, Ext.A2 is the renewal permit, The case of the petitioners stands proved through the oral evidence and documents produced. It is pertinent to note that no contra evidence adduced from the other side. The evidence of PW1 and the documents in support of his evidence remain undisputed and unchallenged. Thus, I am of the view that the petitioners succeeded to establish their case and they are entitled to an order of enhancement of fair rent as prayed for. Cost of the petition shall follow the event.

In the result, the petitions are allowed with costs under Section 11(4)(iv), of the Kerala Buildings (Lease and Rent Control) Act, 1965 as follows:-

Both RCP 26/2019, 28/2019 and 37/2019 are allowed under section 11(4)(iv) of the Act. The respondents are directed to surrender vacant possession of the petition schedule rooms to the petitioners within one month from this date, failing which the petitioners are set at liberty to get the order executed through the process of the Court.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court, this the 31st day of July , 2023).

RENT CONTROL COURT/MUNSIF

Plaintiff's Exhibits:-

- A1 03-07-2019 Building Plan and Permit.
- A2 03-07-2019 Renewal Permit.

Plaintiff's Witness:-

PW1 Musthafa.P

Court Exhibit:-

- C1 Commission report submitted by Shiju Puthiyapurayil, Adv. Commissioner dated 05-01-2023.

Defendants' Exhibit and Witness :- Nil

RENT CONTROL COURT/MUNSIFF