

**IN THE COURT OF THE RENT CONTROLLER (MUNSIFF) OF
KUTHUPARAMBA**

Present:- Smt. Athira Nair., Munsiff.

Monday, the 30th day of March, 2026/ 9th Chaithra, 1948.

RENT CONTROL PETITION No.23 OF 2023.

Rajeev Nanu Nair, S/o. Late. Nanu Nair, aged 56 years, Residing at "Sidhi", Chiplon, Ratnagiri, Maharashtra.	]]]	Petitioner.
Vs.		
R. Prasad, Father's name not known, aged 43, Residing at Radha Nivas, P.O. Mambaram, Via. Pinarayi, Thalassery. 670 741.	]]]	Respondent.

This petition coming on 23rd day of March, 2026 for hearing before me in the presence of Sri. V.M. Sharesh Kumar, Advocate for the Petitioner ; of Sri. V.K. Prabhakaran, Advocate for the respondent ; and having stood over for consideration till this day; the court passed the following:-

ORDER

This is an RCP filed under Section 11(3) of the Kerala Building Lease and Rent Control Act.

2. **Petitioner's case:-** The petitioner owns the owner of the petition schedule, and the respondent is the tenant of the petition schedule. The room was originally leased to the respondent by the petitioner's father, Nanu Nair, at a monthly rent of ₹.200 (Rupees Two Hundred only), which has since been increased periodically to the current rent of ₹.1,000 (Rupees One Thousand only) per month. The respondent initially operated a watch-repairing business in the room until 2016, after which the room remained closed for a year. Subsequently, the respondent sublet the building to third

parties, who made material alterations to convert it into a Beauty Parlour, which is now operated by the subtenant. The respondent is not currently conducting any business in the room. Even if the respondent wished to do so, several other buildings in the same locality are available. The petitioner's wife now plans to establish a Ladies' Tailoring Unit in the petition schedule room, which both the petitioner and his wife find suitable as it is neat, clean, and located on the ground floor. The petitioner bona fide requires the petition schedule room for this new business, and the petitioner's wife depends on him for this. Therefore, this petition has been filed under Section 11(3) of the Act.

3. **Respondent's case:-** The respondent has filed a counter, denying the entire claim of the petitioner and contends that the petition is not maintainable. It is asserted that there are no arrears of rent payable by the respondent. The petitioner had earlier raised allegations of sublease and material alteration to the petition schedule building by filing an RCP, which was dismissed by this court. Hence, the petitioner is estopped from raising the same allegations again. The respondent disputes the bona fide need alleged by the petitioner, stating that the petitioned room is the most inconvenient in the entire building, being the smallest with only one meter width, located beneath the staircase landing with a petty entry also beneath the staircase. According to the respondent, the petitioner, who was born and raised in Mumbai and is permanently settled in Ratnagiri District, has his children studying in Maharashtra. The wife of the petitioner, for whose benefit the bona fide need is claimed, is also engaged in business in Ratnagiri, so the claim of intending to start a business at Mambaram is not genuine. In 2018, the petitioner demanded a security deposit of ₹.1,00,000/- (Rupees One

Lakh only) and an exorbitant rent increase, but the respondent agreed only to a rise of ₹.50,000/- (Rupees Fifty Thousand only). The respondent contends that the alleged bona fide need is merely a ruse to evict him. It is further pointed out that the petitioner has several vacant rooms in the same building, including the room previously occupied by BSNL, which was surrendered and is now in the petitioner's direct possession. Apart from the vacant building owned by the petitioner, no other empty buildings are available in the locality for the respondent to shift his business. On these grounds, the respondent submits that the petition is liable to be dismissed.

4. **Evidence:-** From the side of the petitioner, PW1 was examined and Exhibits A1 and C1 were marked. On the respondent's side, RW1 to RW3 were examined and Exhibits B1 to B4 were marked.

5. Heard both sides.

6. **Points arise for consideration:**

1. *Whether the petitioner is entitled to get an order of eviction under section 11 (3) of the act?*
2. *Reliefs and costs?*

7. **Point No.1:-** The petitioner claims ownership of the petition schedule building and asserts that the respondent is a tenant in the petition schedule room. The tenancy was originally created by the petitioner's father for a monthly rent of ₹.200/- (Rupees Two Hundred only), which was later increased to ₹.1,000/- (Rupees One Thousand only). The room was let out for conducting a Watch Repairing business, which the respondent continued until 2016. Thereafter, the respondent

closed the room for one year and sublet it to third parties, who made material alterations and started a Beauty Parlour. Currently, the subtenant is running the Beauty Parlour business, while the respondent himself is not engaged in any business in the room. The petitioner contends that his wife intends to start a Ladies' Tailoring Unit in the room, which they find suitable due to its cleanliness, ground floor location, and convenience. The petitioner asserts a bona fide need for the room under Section 11(3) of the Act.

8. The respondent, on the other hand, denies the entire claim and challenges the maintainability of the petition. He argues that there are no arrears of rent and points out that similar allegations of sublease and alteration were previously raised in an RCP, which was dismissed, thereby estopping the petitioner from raising them again. The respondent disputes the bona fide need, asserting that the petition schedule room is the smallest and least convenient in the building, being only one metre wide and situated beneath the staircase landing with a narrow entry. He further claims that the petitioner is permanently settled in Ratnagiri, Maharashtra, with his family and wife engaged in business there, rendering the alleged intention to start a tailoring unit at Mambaram implausible. The respondent also alleges that in 2018, the petitioner demanded an exorbitant security deposit and rent increase, which he partially agreed to, and that the current claim of bona fide need is merely a ruse to evict him. He points out that the petitioner possesses several other vacant rooms within the same building, including one recently surrendered by BSNL, which remains in the petitioner's possession. He contends that no other vacant

buildings are available in the vicinity for him to relocate his business, and therefore, the petition should be dismissed.

9. In this matter, the tenancy is admitted. Although the petitioner has raised certain claims regarding arrears of rent, rent rate, sublease, and material alterations of the petition schedule room, no specific prayers have been included in the petition on those points, and thus, those issues do not arise for consideration. The only matter to be decided by this Court is the bona fide need alleged by the petitioner. The petitioner seeks eviction of the respondent on the ground that the property is required for the bona fide need of his wife, who was examined as PW1. According to PW1, she intends to start a Ladies' Tailoring Business and has found the petition schedule room to be the most suitable for that purpose.

10. The respondent disputes this claim, asserting that the petitioner is permanently residing at Ratnagiri, Maharashtra. It should be noted that the petition as well as the affidavit filed with it show the petitioner's address in Ratnagiri. However, in the affidavit filed in lieu of examination-in-chief, PW1 has stated her address as Dharmadam Village in Kannur District. PW1 has deposed that she wishes to start a tailoring business independently without relying on others, and that the petition schedule room, although the smallest in the building, is the most suitable for her proposed business. She further stated that there are no other vacant rooms in their possession.

11. PW1 also gave evidence stating that she was born and brought up in her ancestral house at Thalassery, near Palayad High School, and that she has been residing in her own house called Apsara

at Palayad for several years. She explained that the petition schedule building is only 5 km away from her residence, and that conducting business in Mambaram Town would not present any difficulty. However, the petition itself indicates the permanent address of the petitioner as Ratnagiri, Maharashtra. The respondent's consistent case is that both the petitioner and PW1 are residing in Ratnagiri, and for this reason, he even sought to examine the local Ward Member, though his petition was dismissed as it was filed belatedly.

12. During cross-examination, PW1 admitted that her permanent residence is at Palayad, while her husband and children are residing in Ratnagiri, Maharashtra. She further stated that her husband was born and brought up in Ratnagiri, and that after marriage she also moved there. She acknowledged that after marriage, both she and her husband had lived together in Ratnagiri. These versions are contradictory and do not inspire confidence, as her claim is that her family resides in Ratnagiri and she alone has been residing in Dharmadom for the last several years, especially since she admits that she depends on her husband for expenses.

13. In a petition under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act, the main issue to be decided is whether the need claimed by the landlord is genuine and bona fide, or if it is merely a pretext to evict the tenant. Only if the bona fides are proven can the provisos be applied. In this case, the evidence of PW1 does not inspire confidence regarding the authenticity of the claimed need. The petitioner asserts that there are no other vacant rooms in their possession for the proposed business. However, the respondent, in his

counter, has specifically pleaded that four rooms previously occupied by BSNL were vacated and are now in the possession of the petitioner.

14. During cross-examination, PW1 denied this fact and maintained that all the rooms were still in BSNL's possession. However, RW2, the Deputy General Manager of BSNL, Kannur, was examined as a summoned witness. He clearly stated that BSNL had initially occupied 7 rooms in the petitioner's building but later vacated 4 rooms after copper networking was cease, retaining only 2 rooms. This testimony was not effectively challenged during cross-examination, except for a suggestion that RW2 could not speak about the extent or area of the vacated rooms. Such a suggestion essentially admits that 4 rooms had indeed been vacated and were in the petitioner's possession.

15. The Commissioner's report also supports this position, noting that certain rooms previously possessed by BSNL were found locked and could not be opened, but were clearly identified as rooms vacated by BSNL. Therefore, it is established that at the time of filing the petition, four rooms were vacant and in the possession of the petitioner. However, neither in the petition nor in the evidence of PW1 was this fact disclosed. On the contrary, PW1 denied the existence of such vacant rooms. The question that arises is why PW1 chose to deny the availability of these rooms when the evidence clearly shows otherwise. No satisfactory explanation has been offered before this Court.

16. The counsel for the petitioner argued that the petition schedule room was chosen because it was the smallest and most convenient for starting a Ladies' Tailoring business. However, no special reasons have been pleaded or proved as to why the other four vacant

rooms could not be utilised for the proposed business. More importantly, the non-disclosure of the existence of these vacant rooms itself constitutes a serious infirmity.

17. The principle laid down in *Mohanan v. M.I. Paul* [2018 (0) *Supreme (Ker)* 625] is directly applicable. The Hon'ble Kerala High Court in that case has held that a landlord seeking eviction under Section 11(3) must disclose the existence of other vacant rooms in his possession and must prove special reasons for preferring the petitioned room. Non-disclosure of such crucial facts undermines the bona fides of the need projected. The Court observed that "the act of non-disclosure of a crucial fact cuts at the bona fides of the need that is put forward."

18. Applying this principle, it is evident that the petitioner has failed to disclose the existence of 4 vacant rooms in his possession and has not shown any special reasons for preferring the petition schedule room. This omission strikes at the root of the bona fides of the claim. The denial of vacant rooms by PW1, despite clear evidence to the contrary, further weakens the credibility of the case.

19. In conclusion, the petitioner has not established a bona fide need under Section 11(3) of the Act. The non-disclosure of vacant rooms and the absence of special reasons for preferring the petition schedule room render the claim unsustainable. As earlier discussed, only if the bona fide need is prima facie proved, does the onus shift to the respondent to prove that he is entitled to protection under the proviso of section 11(3). In this case, as the bona fide need itself is not

proved, the application of the proviso is not attracted. Accordingly, the petition is liable to be dismissed.

Point No.1 is found against the petitioner.

20. **Point No. 2:-** Considering the facts of this case, this Court is of the view that the respondent is entitled to realise his cost of litigation from the petitioner.

In the result, petition stands dismissed. Respondent is entitled to recover his costs of litigation from the petitioner.

(Dictated through Adalat-AI, arranged in proper form by Confidential Assistant, corrected and pronounced by me in open court on this day, the 30th day of March 2026).

Sd/-
RENT CONTROLLER (MUNSIFF).

APPENDIX:-

PW1 : Smt. Prajeena Rajeev.

Petitioner's Exhibits:-

A1.	29-08-2016	Certified copy of Document No. 2051/2016 of SRO. Anjarakandy.
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Respondent's Witnesses:-

RW1 : Sri. R. Prasad.

RW2 : Sri. P. Balachandran. Deputy General Manager, BSNL.

RW3 : Smt. V. Sijimol, Advocate Commissioner.

Respondent's Exhibits:-

B1	15-11-2022	Certified copy of Order in RCP 36/2018 of Munsiff's Court, Kuthuparamba.
B2.	08-10-2024	Copy of Application addressed to the BSNL, Kannur under the Right to Information Act.
B3.	--	Photo with negative.

B4.	24-10-2024	Letter issued by DGM Telecom BSNL, Kannur, under the Right to Information Act.
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Court Exhibits:-

C1.	28-11-2025	Report submitted by Smt. V. Sijimol. Advocate Commissioner in the above matter.
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Sd/-
RENT CONTROLLER (MUNSIFF).

Kps.

Fair/Copy of Order in
RCP No.23/2023.

Dated: **30-03-2026.**