

**IN THE COURT OF THE PRINCIPAL RENT CONTROL  
APPELLATE AUTHORITY, KOTTAYAM**

Present: Sri. Manoj M., Principal Rent Control Appellate Authority

Thursday, 21<sup>st</sup> day of May, 2026  
31<sup>st</sup> day of Vaisakha, 1948

**Rent Control Appeal No.16/2024**  
(RCP No.40/2016 of Rent Control Court, Kottayam)

**Appellants/Petitioners:**

- 1 Jose Mathew, aged 55 years, S/o Dr. K.J. Mathew,  
Kudakaseril, Muttambalam P.O.,  
Muttambalam Village, Kottayam - 686004.
- 2 Dr. K.J. Mathew, aged 88 years, S/o. Late K. Joseph,  
Kudakaseril, Muttambalam P.O., Muttambalam Village,  
Kottayam - 686004.

By Adv. K. Karjet & Adv. Arathy K.

**Respondents :-**

- 1 Antony Pananthottam, Aged 59 years,  
Panamthottam House, Alapra P O,  
Karikkattoor, Manimala, Kottayam, PIN 686544.
- 2 Aleykutty Joseph, aged 87 years, W/o. Late T.J. Joseph,  
Kudakasserril, Kanjikuzhy, Muttambalam P.O.,  
Kottayam- 686004.
- 3 Merliz Stanely, aged 62 years, W/o. Stanely Scariah,  
Karikattuparambil, A-8, Golden Enclave, Kanjikuzhy,  
Muttambalam P.O., Kottayam - 686004.
- 4 Rani Xavier, aged 59 years, W/o. Jacob Xavier,  
Kayyalackakom, Pala.
- 5 Jancy Jose, aged 56 years, W/o. K.C. Jose,  
Kanichayi House, Vynthala, Annammanada,  
Trichur - 680741.

- 6 Jose Joseph, aged 64 years, S/o. Late T.J. Joseph, Kudakasseril, Kanjikuzhy, Muttambalam P.O., Kottayam - 686004.
- 7 Kuruvilla Joseph, aged 60 years, S/o. Late T.J. Joseph, Kudakasserril, Kanjikuzhy, Muttambalam P.O., Kottayam - 686004.
- 8 John Joseph, aged 58 years, S/o. Late T.J. Joseph, Kudakasserril, Kollad P.O., Kottayam - 686009.
- 9 Mathew Joseph, aged 57 years, S/o Late T.J. Joseph, Kudakaseril, Kanjikkuzhy, Muttambalam P.O., Kottayam - 686004.

R1 by Adv. A.J. Dominic

R2 to R7 by Adv. P.A. Rabeez, Adv. Reny Baby,  
Adv. Anakha Santhosh Adv. Adithya Benzeer,  
Adv. Riswan T. Nazer and Adv. Treesa Sony Thoppil

R8 & R9 No Vakalath seen filed.

Appeal filed under Section 18 of the Kerala Buildings (Lease and Rent) Control Act.

This Rent Control Appeal is coming up on for final hearing on 30.04.2026 and the court on 21.05.2026 passed the following:-

### **JUDGMENT**

This appeal is filed under Section 18 of the Kerala Buildings (Lease and Rent Control) Act by the appellants, who are the original petitioners 1 and 2 in RCP No.40/2016 against the Order dated 06.02.2024 passed by the Rent Control Court, Kottayam, whereby the petition was dismissed as not

maintainable on the ground that the claims for fixation of fair rent and eviction were jointly pleaded in the original petition.

**2.** The appellant's case is as follows :- RCP No.40/2016 was filed before the Rent Control Court, Kottayam, contending that the petitioners 1 to 10 are the absolute owners of the building named Kudakaseril Buildings in Ward No.IX of Kottayam Municipality and the counter petitioner is the tenant of the scheduled room therein. The counter petitioner has defaulted in payment of the agreed rent. Moreover, the prevailing rate of fair rent at the place where the building is situated is ₹40 to ₹50 per square feet and the prevailing rate of rent is very low. Hence, the petition was filed by the petitioners seeking fixation of fair rent for the scheduled building and eviction on the ground of arrears of rent.

**3.** The respondents/counter petitioners contended that the reliefs under Sections 5(1) and 11(2)(b) of the Kerala Buildings (Lease and Rent Control) Act cannot be sought in a single petition, and hence the petition is not maintainable.

**4.** The trial Court considered the averments in the petition and the contentions of both sides and vide the impugned common order dated 06.02.2024 found that in view of the

decision reported in 2017 (4) KLT 391, which held that an interlocutory application filed under Section 5 of the Act for fixation of fair rent in the original petition filed for eviction under the grounds specified under Section 11 of the Act is not maintainable; the reliefs of fixation of fair rent and eviction would amount to misjoinder of causes of action and rejected the petition as not maintainable.

**5.** Against the impugned order, the Rent Control Appeal is filed, urging the following main grounds: The trial Court took the decision contrary to the established principles of law and precedents; the finding of the trial Court that a petition under Sections 5(1) and 11(2) cannot be jointly tried and it amounts to misjoinder of causes of action, is erroneous; the decision of the Hon'ble High Court in *T.K. Sreenivasan v. Rugmini* reported in 2017 (4) KLT 391 was wrongly understood by the trial court in view of the fact that the said decision merely held that an interlocutory application for fixation of fair rent in a case for eviction is not sustainable; the trial Court ought to have considered the decision of the Hon'ble High Court of Kerala in *Puthiyapurayil Shabeer v. Cheriya Thoppilakath Aminabi* reported in 2019 KHC 2816 and *Jamal v. Safia Beevi* reported in 2005 (2)

KLT 359, which clearly shows that cause of action for fixation of fair rent and eviction could be joined together as fixation of fair rent is sought for till the date of passing the order of eviction only, hence the impugned order of the trial Court may be set aside and the matter may be remanded back for fresh disposal.

**6.** Respondent No.1 and respondent Nos.2 to 7 entered appearance. Respondent Nos.8 and 9 remained ex-parte. The learned counsel for respondent Nos.2 to 7 submitted that they do not have any objection in allowing the appeal.

**7.** Heard the learned counsel for respondent No.1 and the learned counsel for the appellants and perused the records of the trial court.

**8.** The only point which arises for consideration is;

Whether the impugned Order of the trial Court dated 06.02.2024 in R.C.P. No.40/2016 is legally sustainable?

**9. The Point :-** The learned counsel for the appellants contended that the trial Court had erroneously placed reliance on the decision of the Hon'ble High Court of Kerala in **T.K. Sreenivasan v. Rugmini** [2017 (4) KHC 525], which merely held that in an original Rent Control petition filed under Section

11(4)(ii) claiming eviction on the ground of reducing the value or utility of the building, an interlocutory application filed for fixation of fair rent is not maintainable. It was contended that the aforesaid judgment relied on by the trial court does not lay down the principle that a joint petition seeking fixation of fair rent and eviction under Section 11 amounts to misjoinder of causes of action. The learned counsel for the appellants relied on the decision in **Jamal v. Safia Beevi** [2005 KHC 579], wherein the Division Bench held that a landlord can unite several causes of action against a single tenant in one petition, and that a joint petition on multiple grounds does not amount to misjoinder of causes of action. Reliance was also placed on the decision of the Hon'ble Kerala High Court in RCRV.No.62 of 2017, wherein the Court considered and upheld an order granting eviction under Section 11(2)(b) along with fixation of fair rent under Section 5(1) in a single petition.

**10.** Reliance was also placed on the decision of the Hon'ble Kerala High Court in RCRV.No.281 of 2018, wherein it was held that a landlord can unite several causes of action against a single tenant, and that such a petition is maintainable. The learned counsel for the appellants thus contended that the

impugned order of the trial court is not legally sustainable and the order may be set aside.

**11.** Per contra, the learned counsel for the first respondent contended that a petition for eviction under any of the grounds specified in Section 11 and a petition for fixation of fair rent are distinct proceedings, as the matters to be considered in each are different. Hence, the said causes of action cannot be united in a single petition, and such joinder amounts to misjoinder of causes of action. He relied on *Sreenivasan's case*, as referred to by the Rent Controller, to contend that a petition seeking both fixation of fair rent and eviction is not maintainable.

**12.** I have gone through the judgment of the Hon'ble High Court of Kerala in **T.K. Sreenivasan v. Rugmini** [2017 (4) KHC 525]. In the said case, while an application under Section 11(4) (ii) was pending consideration for evicting the tenant on the ground of reducing the utility of the tenanted premises, the landlord filed an interlocutory application for fixation of fair rent. The Hon'ble High Court of Kerala held that the said interlocutory application was not maintainable. Therefore, the judgment in *Sreenivasan's case* is contextually distinguishable, inasmuch as that was not a case where the original RCP had

been filed incorporating both a claim for fixation of fair rent under Section 5(1) and a prayer for eviction under Section 11(4) (ii). Therefore, the reliance placed on Sreenivasan's case by the trial Court is misconceived.

**13.** In **Jamal v. Safia Beevi** reported in 2005 KHC 579, the Hon'ble High Court of Kerala has held that:

*“The principle behind such an action is that even in cases the landlord seeks individual reliefs where the enquiry would be a large extend be identical in each individual Rent Control Petition the landlord may unite all the causes of action in one petition so as to avoid multiplicity of petitions and to avoid unnecessary expenditure. The trial of the petitions should not be embarrassed by simultaneous investigation of totally diversified causes of actions. We therefore affirm the judgment in Sultan v. Mohanan's case (supra). Landlord can also unite in the same petition several causes of action against single tenant. For example; landlord can unite grounds under S. 11(4)(i), 11(4)(iii), 11(4)(iv), 11(8), etc. against single tenant. In such a situation also, petition is not bad for misjoinder of cause of action, because there would not be any conflict of interest between the tenants inter se. We are therefore of the view that a single petition for eviction under S 11(4)(iv) would lie against all the tenants who*

*are in occupation of distinct portions of the same structure, in the event of which there is no misjoinder of causes of action or misjoinder of parties and the petition is not hit by multifariousness.”*

**14. In Puthiyapurayil Shabeer v. Cheriya Thoppilakath Aminabi and Others** reported in 2019 KHC 2816, the Hon’ble High Court of Kerala considered a revision petition filed against an order of the Rent Control Court allowing eviction under various grounds under Section 11 and also fixing fair rent under Section 5(1). The High Court specifically held that a petition seeking fixation of fair rent along with eviction on other grounds is maintainable, since fixation of fair rent was sought only till the passing of the order of eviction. It is held as follows:

*“Thirdly the learned counsel for the petitioner submits that the rent control petition seeking eviction and fixation of fair rent are not maintainable in view of the decisions reported in Mohammad Ahmad and Another vs. Atma Ram Chauhan and others, 2011 KHC 4505 and Subair and others vs. C.P. Kunhami @ Kunhimariyam and others 2015 (5) KHC 260. We have carefully gone through the aforesaid decisions, and we find that the proposition laid down in those decisions will not come into effect in the present case. In the present case the fixation of fair rent is sought for till the date of passing the order of eviction only; but the decisions referred above are applicable to the cases in which the fixation of fair rent was made and,*

*thereafter, a periodical enhancement was provided in those orders fixing the fair rent. So the aforesaid decisions are applicable to cases in which periodical enhancement was also allowed. Since the facts of the present case are distinguishable from the facts in the decisions referred above, we are not inclined to apply the preposition laid down in the aforesaid decisions in the instant case. Therefore, we find that the contentions raised by the learned counsel for the revision petitioner in this revision petition are not legally sustainable. Therefore, this revision fails, and it is dismissed.”*

**15.** Thus, in view of the above decisions of the Hon’ble High Court of Kerala, the question as to whether an RCP seeking fixation of fair rent and eviction under Section 11 is maintainable is no longer res integra. It is now well settled that a petition combining the aforesaid reliefs is maintainable.

**16.** In the said circumstances, I find that the impugned order of the trial court holding that the RCP is not maintainable merely because it sought fixation of fair rent under Section 5(1) along with eviction under Section 11(4)(ii) is erroneous and warrants interference. Point is thus found in favour of the appellant.

**17.** In the result, this appeal is allowed. The impugned order of the Principal Rent Controller, Kottayam in R.C.P. No.40/2016

is hereby set aside and the case is restored to the file of the Principal Rent Control Court, Kottayam.

The parties shall appear before the trial court on 08.06.2026.

The Principal Rent Controller, Kottayam, shall make every endeavour to dispose of the petition, as per law, within six months from 08.06.2026.

*Dictated to the Confdl. Assistant, transcribed by her and corrected by me and pronounced in open court on this the 21<sup>st</sup> day of May 2026.*

Sd/-  
**Manoj M.**  
**Rent Control Appellate Authority.**

**APPENDIX : NIL**

Id/-  
**Rent Control Appellate Authority**

//True Copy//

Copied by :  
Compared by :

**By Order**

**Sd/-**  
**Sheristadar**