

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

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

Wednesday, the 29th day of April, 2026
9th day of Vaishakha, 1948

Rent Control Appeal No.18/2024
(RCP No.43/2016 of the Principal 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 K.S. Ninan, aged 71 years, S/o. K.N. Scaria,
Kozhikunnathu, Parathodu, Edakunnam,
Kottayam - 686512.
- 2 Aleykutty Joseph, aged 87 years, W/o. Late T.J. Joseph,
Kudakasseril, 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, Kanjikkuzhy, Muttambalam P.O., Kottayam - 686004.
- 7 Kuruvilla Joseph, aged 60 years, S/o. Late T.J. Joseph, Kudakasseril, Kanjikkuzhy, Muttambalam P.O., Kottayam - 686004.
- 8 John Joseph, aged 58 years, S/o. Late T.J. Joseph, Planter, Kudakasseril, Kollad P.O., Kottayam - 686009.
- 9 Mathew Joseph, aged 57 years, S/o Late T.J. Joseph, Kudakasseril, Kanjikkuzhy, Muttambalam P.O., Kottayam - 686004.

R1 by Adv. A.J. Dominic
R2 to R7 by Adv. P.A. Rabeez
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 18.04.2026 and the court on 29.04.2026 passed the following:-

JUDGMENT

This is an appeal filed under Sec.18 of the Kerala Buildings (Lease and Rent Control) Act by the appellants / petitioners against the Order dated 31.05.2024 in RCP No.43/2016 of Rent Control Court, Kottayam, whereby the petition was disposed as not maintainable.

2. The appellant's case is as follows :- The appellants are the 1st and 2nd petitioners in RCP No.43/2016, filed before the Principal Rent Control Court, Kottayam, under Section 5(1) of the Kerala Buildings (Lease and Rent Control) Act for fixation of fair rent. The 1st respondent is the tenant, and respondents 2 to 10 are the remaining petitioners. The tenant disputed the title of the petitioners, claiming that he had taken the building on lease from K. Joseph & Co., though he admitted that rent was being collected by persons appointed by the petitioners. The petitioners relied on title documents, including a settlement deed and a will. However, the Rent Control Court, without taking evidence or properly considering the title documents and without affording an opportunity to the petitioners to prove their title, dismissed the RCP on 31.05.2024, holding that there was a bona fide dispute regarding title and that the matter should be decided by a civil court. Aggrieved by this order, the present appeal has been filed under Section 18 of the Act.

3. The impugned order is challenged urging the following grounds: The order of the trial court is unsustainable in law, facts, and circumstances, having been passed without proper appreciation of evidence or correct application of law; that the

court failed to note that the respondents had admitted the tenancy and the status of the appellants as legal heirs of the original owner, thereby rendering the finding of a bona fide dispute regarding title untenable; that the trial court erred in treating the tenant's contention as a denial of title, even though no independent title was set up in a third party or in the tenant himself. The alleged dispute was only inter se among title holders and does not amount to denial of title under Section 11(1) of the Act, which is, in any event, inapplicable to proceedings for fixation of fair rent under Section 5; that the court failed to consider the title documents produced by the appellants and passed the order without permitting them to adduce evidence. The decision was thus rendered without any proper enquiry, relying on assumptions and without application of mind; that the trial court also acted beyond its jurisdiction in virtually reviewing its earlier finding that the denial of title was not bona fide, and in relying on irrelevant materials such as an alleged rental agreement and ignoring the affidavit of the 9th petitioner disclaiming ownership; that the petition was dismissed arbitrarily after a prolonged period of proceedings, without affording sufficient opportunity to the appellants to

prove their case and that the findings are contrary to settled legal principles governing denial of title.

4. The respondents 1 to 7 entered appearance.
5. The trial court records were received and perused.
6. Heard the Counsel for the appellant and counsel for the Respondent No.1. The counsel for Respondent Nos.2 to 7 submitted that there is no objection for allowing the appeal.
7. The only point which arises for consideration is;

Whether the impugned Order of the trial Court dated 31.05.2024, whereby R.C.P. No.43/2016 was disposed of by relegating the matter to the Civil Court, is legally sustainable?

8. **The Point** :- A perusal of the rent control petition in R.C.P. No.43/2016 would reveal that originally there were 10 petitioners and they contended that they were absolute owners of the scheduled building. As per the objection filed by the respondent/tenant at para 12 it is specifically admitted that the rent is being paid by the respondent/tenant regularly to the petitioners. It is also stated that the rent is being collected by

different persons appointed by the persons claiming to be the owners of the scheduled building. Therefore, at any rate as per the pleadings the respondent/tenant has attained the tenancy in favour of the present petitioners and is paying rent for the scheduled buildings to the petitioners, considering them as the landlords. As per Section 2(3) of the Kerala Buildings (Lease and Rent Control) Act, an inclusive definition is given to the word 'landlord'. It is apposite to refer to the definition, which reads as follows:

"2(3) Landlord' includes a person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another, or on behalf of himself and others, or as an agent, trustee, executor, administrator, receiver or guardian, or who would so receive the rent or be entitled to receive the rent if the building were let to a tenant."

9. The landlord had filed IA No.2/2024 to delete the petitioners 3 to 9 from the party array on the ground that though initially all the petitioners were managing the building complex jointly and were jointly collecting the rent at present the scheduled building portion is only being managed by petitioners 1 and 10 separately. Now petitioners 3 to 9 are not

at all connected with the management of scheduled building and they are not at all necessary parties to the proceedings.

10. The trial court records reveal that, as per order dated 31.01.2024, the Rent Controller found that the contention of denial of title taken by the respondent is not bona fide.

11. However, as per the impugned order dated 31.05.2024 the Rent Controller found that as the petitioners 3 to 9 have not signed the petition to delete them from the party array and petitioners 1 and 10 filed petition stating that they are the owners of the building, the 9th petitioner filed memo that petitioner No.1 and 10 are owners of the building, the other petitioners have not signed the petition, and there appears to be a dispute among the petitioners regarding the title to the building, there is change in circumstances from the court holding that the denial of title is not bona fide; and now there is a bona fide denial of title and that title has to be decided by the Civil Court; reviewed the earlier order holding that the denial of title was not bona fide, and held that the petition is not maintainable and the matter has to be relegated to the Civil Court.

12. The counsel for the petitioners relied on the decisions reported in **Satheesh Kumar and another v. V.K. Balasubramanian** [2021 (2) KHC 483], **Joseph v. Thomas** [1987 KHC 646], **Palattutharayil Nabeesu v. Chembra Radhakrishnan Nair** [2024 KHC 92], **Jyoti Sharma v. Vishnu Goyal** [2025 KHC 7495] and **Aboobacker v. Girija** [1995 KHC 100] and contended that the denial of title of the landlord by the tenant should be bona fide and a bare denial is not sufficient to attract the provision and that once the tenant has attained the tenancy in favour of the landlord by paying rent, he cannot deny the title of the landlord. It was thus contended that the order of the Rent Control Court is erroneous and not legally sustainable.

13. Per contra, the counsel for the first respondent supported the impugned order of the Rent Controller and held that the denial of title is bona fide and that the impugned order warrants no interference.

14. In this case, the Rent Controller had initially found that the denial of title is not bona fide. Therefore, in a subsequent stage of the proceedings the order cannot be reviewed merely

because some of the petitioners were sought to be deleted from the party array. It needs to be noticed that originally a joint petition was filed by 10 petitioners who had engaged the same counsel. The very same counsel had filed the petition to remove the petitioners 3 to 9 from the party array on the ground that subsequent to the filing of the petition, petitioners 3 to 9 are not managing the scheduled building and it is under the ownership of petitioners 1 and 10. In the said circumstances, under Section 11(1) of the Act, the denial of title cannot be said to be bona fide. Much less, the Rent Controller had assumed that there is a dispute among the petitioners regarding the title of the building. It was not a ground to review the earlier order finding that there was no bona fide denial of title and come to the conclusion that there is a bona fide denial of title. The trial court has lost sight of the fact that the term 'landlord' is given a very wide definition, and that the respondent/tenant has stated that he was paying rent regularly to the petitioners. The judgments of the High Court and the Supreme Court relied on by the counsel for the petitioners lay down the proposition that the denial of title must be bona fide and that a bare denial is not sufficient. In this case, by the

mere filing of a petition to delete petitioners 3 to 9 from the party array, the Rent Controller reviewed the earlier order holding that the denial of title was not bona fide. The said order is erroneous and does not conform to the grounds for review of an order. This is so because the tenant has admitted to pay the rent to the petitioners and it is an admission of the title of the petitioners. The assumption of the Rent Controller that there is an inter se dispute regarding title among the petitioners is not based on any material.

15. In the said circumstances, it is found that the impugned order of the trial court, holding that there is a bona fide denial of title of the landlord and relegating the matter to the Civil Court, is not legally sustainable and it warrants interference. The point is thus found in favour of the appellant.

16. In the result, this appeal is allowed. The impugned order of the Principal Rent Controller, Kottayam in R.C.P. No.43/2016 relegating the matter to the Civil Court 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 29th day of April 2026.

Sd/-
Manoj M.
Rent Control Appellate Authority.

APPENDIX : NIL

Id/-
Rent Control Appellate Authority

//True Copy//

Copied by :
Compared by :

Sd/-
Manoj M.
Rent Control Appellate Authority.