

IN THE RENT CONTROL, VAIKOM
Present: Sri. Atheek Rahman, Munsiff.

Friday 22nd day of July 2022
31st day of Ashadha, 1944

R.C.P. 06/2020

Petitioner :-

Narasimha Naik., aged 91,
S/o. Sreenivas Naik,
Panthalloor House,
Padinjattumcheri Muri,
Vaikom P.O, Vaikom Village,
Vaikom Taluk.

By Adv. S.N. Jayachandran

Respondent :-

Joseph, aged 80,
S/o. Varghese,
Cholankeril House,
Vadayar P.O, Kizhakkekkara Muri,
Vadayar Village, Vaikom Taluk.

Exparte

This petition having been finally heard on 22.07.2022
and the court on the same day passed the following:-

ORDER

1. Petition is filed for eviction of tenant under section 11(2) (b) and 11(3) of the Kerala Building (Lease and Rent Control) Act, 1965.

2. Petition averments in brief are as follows:-
Petition schedule building belongs to petitioner. On 01.10.1989 petitioner rented out the petition schedule building to respondent for conducting a furniture shop for monthly rent of Rs.400/- on the basis of a rent agreement. The rent arrangement was continued by renewing the rent arrangement periodically and also increasing the rent. As agreed between parties, the rent was increased to Rs.2200/- per month from June 2012 and again it was increased to Rs. 3000/- from the month of April 2014. Petitioner paid rent up to 17.06.2016. Thereafter, respondent made default in paying the rent. On 08.07.2020 petitioner issued notice to respondent demanding the arrears of rent with interest. Respondent received notice on 15.07.2020.

But he did not pay the arrears of rent. Sreekala who is the daughter in law of petitioner is residing along with petitioner. His daughter in law is intending to start a Super Market in Vaikom Town. In order to do the said business, Sreekala has no shop rooms. In order to get a suitable place to conduct super market, Sreekala approached the petitioner. Petitioner agreed to give the petition schedule building to Sreekala. Hence, it is highly essential to get vacant possession of petition schedule building to petitioner. The other building belongs to petitioner is in a dilapidated condition. There is no other suitable place available to conduct super market in the Vaikom Town. The need of Sreeekala is *bonafide*. So, petitioner *bonafide* needs the vacant possession of petition schedule building. In order to run the business of respondent there are suitable rooms available in the locality. Further, respondent is not solely depending on the income derived from his business conducting in the petition schedule room. Respondent is having property and

other source of income. Hence, petitioner filed this petition seeking eviction of respondent/ tenant.

3. Summons served to respondent. Even though respondent appeared and prayed time for objection, he did not file vakalath and objection. Hence, he was set exparte.

4. Petitioner gave evidence as PW1. Ext. A1 to A4 documents were marked.

5. Heard the learned counsel for the petitioner.

6. I have meticulously gone through the evidence adduced by plaintiff. Petitioner filed proof affidavit in tune with the averments in the petition. Ext. A1 is the rent agreement dated 21.10.1989. Ext. A2 is the copy of lawyer's notice dated 08.07.2020. Ext. A3 is the postal receipt dated 09.07.2020. Ext.A4 is the A/D card. Petitioner gave evidence that due to a clerical mistake the date of Ext. A1 was stated as 01.10.1989. PW1 gave evidence that there is rent due from the respondent. Even after issuance of Ext. A2 notice

respondent did not pay the arrears of rent. Further, PW1 gave evidence that his daughter in law is residing along with him and she *bonafide* needs to start a super market in the petition schedule building. The above said evidence is not seen challenged. From the unchallenged oral and documentary evidence, it can be seen that petitioner is entitled to get eviction of the tenant for the petition schedule building under section 11(2) (b) and 11(3) of the -Kerala Building (Lease and Rent Control) Act. 1965.

7. In the result, petition is allowed with costs as follows:-

1. The petitioner/landlord is entitled to get an order of eviction of the respondent from the petition schedule building under Sections 11(2) (b) and 11(3) of the Kerala Building (Lease and Rent Control) Act, 1965. The respondent/tenant is directed to put the landlord in vacant possession of the petition schedule room within one month from the date of this order, failing

which petitioner is entitled to get it recovered through the process of the court in execution.

2. The respondent/tenant can get the order of eviction passed under Section 11(2) (b) of the Kerala Building (Lease and Rent Control) Act, 1965 vacated by depositing the arrears of rent with 6% interest and costs of the proceedings within one month from the date of this order.

Dictated to Confidential Asst., transcribed and typed by her, corrected and pronounced by me in the open Court on this the 22nd day of July, 2022.

Sd/-
Atheek Rahman
MUNSIFF
(RENT CONTROL COURT).

APPENDIX :-

Exhibits Marked for the Petitioner :-

A1	: 21.10.1989	: Rent agreement
A2	: 08.07.2020	: Copy of Lawyers Notice
A3	: 09.07.2020	: Postal Receipt
A4	:	: Acknowledgement Card

Exhibits Marked for the Respondant :- Nil

Court Exhibits :- Nil

Witness Examined for the Petitioner :-

PW1 : 21.07.2022 : S. Narasimha Naik

Witness Examined for the Respondant :- Nil

Id/-
MUNSIFF
(RENT CONTROL COURT).

// True Copy //

Typed by :-
Comp. by:-

Sd/-
Atheek Rahman
MUNSIFF
(RENT CONTROL COURT).

**Copy of ORDER in
R.C.P. No. 06/2020
Dated: 22.07.2022**