

IN THE COURT OF THE RENT CONTROL, TIRUR
Present: Sri. SANU.C., PRESIDING OFFICER (MUNSIFF)
Tuesday, the 25th day of February, 2025
the 6th day of Phalguna, 1946

INTERLOCUTORY APPLICATION No.3 OF 2024 IN
RENT CONTROL PETITION No.4 OF 2024

Between:

Najeeb,
S/o.Madhuramangalath Avarankutty Haji,
S E Home Staned, Alinchuvadu.

}
} Petitioner
Respondent

And:

Nalakath Muhammed Rasheed,
S/o.Saidalavi, Mangalam amsom desom.

}
} Respondent
Petitioner

This petition having been finally heard on 14-02-2025 before me in the presence of Sri. C.Nandakumar, Advocate for the petitioner and of Sri. Vipin. K, Advocate for the respondent and the court on 25-02-2025 passed the following:

ORDER

This petition is filed under Order 9 Rule 7 of Civil Procedure Code to set aside the exparte order passed against the respondent, dated 21.08.2024.

2. **The case of petitioner is as follows:-** Petitioner is respondent in the above RCP. The petitioner stated that in the above case, as the petitioner did not file the counter, exparte order was passed against the petitioners on 21.08.2024. It is contended that petitioner could not contact his lawyer or appear in court that day due to severe fever and headache. There was no willful laches on his part. The counter statement is produced along with the petition. There are serious

contentions to be raised in the petition. Hence, the above petition.

3. Respondent/petitioner opposed the application and filed counter stating that there is no bonafides in the applications and not maintainable in law. Respondent contended that on 02.04.2024 the petitioner/respondent has appeared before the Court through counsel and has been granted several times to file the counter and the petitioner was made exparte after not file the counter on 21.08.2024. Respondent further contended that there is no substance in the petition. Hence, the petition is liable to be dismissed.

4. Heard both sides.

5. Point arise for consideration is:

1. Whether the petitions can be allowed?

6. **Point No.1** The petitioner contended that he was not able to appear before the Court or contact his lawyer due to the fever and headache, so that he could not file counter in RCP with in stipulated time. It was neither intentional nor deliberate. The petitioner contended that in the above case, as the petitioner did not file the counter, exparte order was passed against the petitioners on 21.08.2024. The respondent ought to have been vigilant in pursuing the matter. However, reckoning the fact that the dispute between parties is to be adjudicated on merit, this court is of the view that an opportunity can be given to the petitioner to contest the case on merit as a last chance. The time and money spent by respondent and the inconvenience caused to his should be taken into consideration. The respondent must be adequately compensated.

In the result,

Petitions are allowed on payment of cost of ₹3,000/- (Rupees Three Thousand only) on or before 15.03.2025 to the respondent/ petitioner.

(Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court, this the 27th February, 2025).

PRESIDING OFFICER (MUNSIFF),
RENT CONTROL COURT, TIRUR.

Typed by : Krishnakumari V

Compared by: 1) 2)

Fair Order IA 3/2024 in RCP 4/2024
Dated. 25-02-2025.
