IN THE RENT CONTROL COURT OF PONNANI
Present:- Smt. Sowmya T.M., Presiding Officer (Munsiff- Magistrate), Ponnani

Tuesday, the 28th day of October, 2025
the 6th day of Karthika, 1947

INTERLOCUTORY APPLICATION No.5/2025
RENT CONTROL PETITION No. 22/2024

Between:-

Subaidha, 58 years, D/o.Karuppam Veettil Moidunni and W/o.Thazhathethil Kunhan, Kololambu amsom, Venginikkara desom, P.O.Ayilakkadu, Ponnani Taluk, Pin 679 576 : Petitioner/ respondent

And:-

Mechinath Valappil Moidu Haji's children

1 Sainudheen, 49 years, Represented by Power of Attorney Holder Sheheer, S/o.Mechinath Valappil Moidu Haji

2 Salih, 45 years, Represented by Power of Attorney Holder Sheheer, S/o.Mechinath Valappil Moidu Haji

3 Shahir, 43 years, Othalur amsom, Chiyanoor desom, P.O.Kokkoor. Pin 679 591

4 Abdul Jishar, 37 years, Pallikkara amsom, desom, P.O.Nannamukku, Ponnani Taluk 679 574. Represented by Power of Attorney Holder Shaheer, S/o.Mechinath Valappil Moidu Haji

5 Shebeer, 34 years, Pallikkara amsom, desom, P.O.Nannamukku, Ponnani Taluk 679 574. Represented by Power of Attorney Holder Shaheer, S/o.Mechinath Valappil Moidu Haji

: Respondents/ Petitioners

Sd/-
Presiding Officer,
Rent Control Court

This petition coming on this day for final hearing before me in the presence of Sri.E.C.Suresh, Sri.Jison.P.Jose and Sri.Jayakrishnan.M, Advocates for the Petitioner/ Respondent Sri.P.Praveen, Sri.Shanavas.P and Sri.K.V.Sujeer, Advocates for the Respondents/Petitioenrs and this court passed the following:-

O R D E R

This petition, I.A. No. 5 of 2025, has been filed by the petitioner under Order XXVI Rule 10 and Section 151 of the Code of Civil Procedure, seeking to remit the Advocate Commissioner's Report and Plan dated 27.05.2025 and requesting the Commissioner to submit a fresh report after noting specific details.

2. The averments in the petition, in brief, are as follows: The Advocate Commissioner failed to report specifically on the identification of the property as per Document No. 2646 of 2011, the details of the other shop rooms in the building, and the businesses conducted therein. The petition schedule building lacks toilet facilities, drinking water taps for customers, fire safety protection, and adequate parking area. The building has suffered from a

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lack of proper maintenance and repairs for several years. The Advocate Commissioner improperly reported the rent of nearby buildings, as those buildings are newly constructed with superior facilities and thus are not comparable for fixing the fair rent of the aged petition schedule building. Despite the work memo submitted by the petitioner, the advocate commissioner has not considered the same. Hence, the report and plan may be remitted.

3. The respondents opposed the application, submitting that the Advocate Commissioner filed a proper report and plan, and that the petitioner's intention is merely to cause unnecessary hardship and prolong the case.

4. The point that arises for determination.

1. Are the report and plan liable to be remitted as prayed for?

5. I heard both sides.

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Presiding Officer,
Rent Control Court

6. The Point: The Rent Control Petition was filed by the respondents for the fixation of fair rent under Section 5 of the Kerala Building (Lease and Rent Control) Act. The central purpose of the R.C.P. is the fixation of fair rent. This judicial task requires the Court to consider all factors specified under the Act, including the age of the building, its amenities, maintenance costs, and prevailing rents of comparable buildings in the locality. The comparative rent must only be taken from buildings that are structurally and amenity-wise similar.

7. The Court finds that the Advocate Commissioner's Report, while placed on record, did not specify whether the Commissioner considered the work memo submitted by the petitioner, nor did it offer reasons for not including crucial details like the building's maintenance state, lack of essential amenities. Since these factors directly relate to the utility and rental value of the property, they are essential for the Court to arrive at a correct conclusion regarding the fair rent.

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Rent Control Court

8. To ensure a meritorious disposal of the R.C.P. and a just fixation of rent, the submissions of the petitioner must be considered through further inspection. Therefore, the Court is inclined to remit the report for clarification and full reporting.

In the result, the petition is allowed.

1. The Advocate Commissioner's Report and Sketch dated 03.6.2025 are hereby remitted to the same Advocate Commissioner for further proceedings.

2. The Advocate Commissioner is directed to submit a report after meticulously considering the work memo submitted by the petitioner and the respondents.

3. The Advocate Commissioner shall specifically report on the age and current maintenance condition of the petition schedule building, the amenities available and ensure that any comparable rents reported are only from buildings of similar age and facilities.

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4. The petitioner (Tenant) shall pay an initial cost of Rupees 4,500/- (Rupees Four Thousand Five Hundred Only) to the Advocate Commissioner.

5. The respondents (Landlords) are also permitted to file a work memo before the Advocate Commissioner, after serving a copy of the same to the other side.

(Dictated to the Confl. Assist, transcribed by her, corrected by me and Pronounced in Open Court this the 28th day of October, 2025).

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Appendix: Nil

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