

IN THE RENT CONTROL COURT OF PONNANI

Present:- Smt. Sowmya T.M., Presiding Officer (Munsiff- Magistrate), Ponnani.

Monday, the 22nd day of July, 2023
the 31st day of Ashadha, 1946

INTERLOCUTORY APPLICATION No.3/2024
IN RENT CONTROL PETITION No. 62/2023

Between:-

Thekkumcheri Kalarikkal Abdul Hameed,
73 years, S/o.Muhammadunni, Ponnani : Petitioner
Taluk, Ayiroor amsom, Puthiyiruthi desom.

And:-

Kanakkott Ayyappan, 55 years,
S/o.Aramughan, Eramangalam amsom, : Respondent
Perumudissery desom, Ponnani Taluk

These petitions are coming on this day for hearing before me in the presence of Sri.P..N.Musthafakamal, Advocate for the Petitioner and Sri.P.K.Khaleemudheen, Smt.Majida.A.M. and Smt.Megha.M.R, Advocates for the Respondent and this Court passed the following:-

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ORDER

The petitioner/landlord filed the above Rent Control Petition under S.12 of the Kerala Buildings (Lease and Rent Control) Act, 1965, against the respondent/tenant.

2 The case of the petitioner, in brief, is as follows: According to the petitioner, the petition schedule shop room was leased out to the respondent for a monthly rent of ₹ 900/-. The petitioner alleged that the respondent had paid the rent up to and inclusive of July 2022, and after that, she deliberately kept the rent in arrears. Therefore, the respondent may be directed to deposit the rent arrears, which would come to ₹ 18,900/- towards the arrears of rent from August 2022 to April 2024.

3. The respondent filed a counter contending that the allegations stated in the petition are not true. The respondent had paid the rent up to April 2023 through the collection agent of Multi-Purpose Co-Operative Societies, Veliancode. The respondent is liable to pay the rent due from 1-10-2023 only and he is ready to pay the actual rent arrears.

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4. The point that arises for determination is

1. Is the petitioner entitled to get an order under Section 12 of the Kerala Buildings (Lease and Rent Control) Act?

5 Heard both sides.

6 The Point: The petitioner alleged that the respondent paid the rent up to and inclusive of July 2022, and after that, the respondent deliberately kept the rent in arrears. The respondent contended that the rent amount is due from 01-10-2023 only as he paid the rent up to 30-09-2023. It is to be noted that the respondent has not produced any document regarding the payment of the rent from July 2022 to 30/09/2023.

7. In *Gopala Panicker Baiju Vs Mallika [2018 (5) KHC 95]*, the Hon'ble High Court of Kerala held that

"According to S.9 (1) of the Act, the tenant is entitled to get a receipt, on payment of rent, and in case of refusal, an alternative remedy for payment of rent is also provided in sub-section (2) of S.9 of the Act. Therefore, a tenant cannot be heard to say that the

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landlord refused to issue a receipt, on payment of rent. The rent receipt is statutorily accepted substantive evidence from which the period of default can be inferred indirectly. According to Taylor on evidence, S.80 an admission may be direct or indirect, express or implied. Therefore, the rent receipts, money order receipts, and other bank records, provided under S.9 of the Act, are documents containing admission which would suggest an inference indirectly, as to the period of default also. 'Admitted arrears of rent' has to be understood and construed in conformity with statutorily recognized payment only. Therefore, for the determination of a petition under S.12 of the Act, it is permissible to require the production of a rent deed by the landlord and the rent receipt or document mentioned in S.9(2) of the Act by the tenant. These materials would obviously show the admitted arrears of rent, without conducting any enquiry or adjudication."

8. In the case on hand, the petitioner has not stated anything about the non-production of rent receipts during the alleged period. The respondent could have produced the payment details, which he had paid through the collection agent. In the absence of any documents regarding the payment of rent from July

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2022 to 30/09/2023, it cannot be said that the respondent is liable to pay the rent arrears from 01-10-2023 only. So, the court is of the view that the respondent is liable to pay rent arrears from August 2022 onwards. This point is answered accordingly.

In the result,

- 1 Respondent is directed to pay ₹ 18,900 towards the arrears of rent in respect of the petition schedule property for a period from August 2022 to April 2024 within 30 days from the date of this order.
- 2 The respondent shall continue to pay or deposit the rent, which accrues at the rate of ₹ 900/- per month within 15 days from the date of due and ordered accordingly.

(Dictated to the confidential assistant transcribed by her corrected and pronounced by me in open court on the 22nd Day of July 2024).

Appendix: Nil

Sd/-
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