

**IN THE COURT OF RENT CONTROL APPELLATE AUTHORITY,
IRINJALAKUDA**

Present:- Sri.Vinod Kumar N., Rent Control Appellate Authority
Tuesday, 17th March, 2026/ 26th Phalguna, 1947

I.A.1/2026 in RCA. No.19/2026

Petitioner/Appellant:-

Sebastian, aged 72 years,
S/o. Tharakanparambil Antony, Avittathur Desom,
Kaduppassery Village, Mukundapuram Taluk.

By Advs. Rajesh Thampan & Visvajith Thampan

Respondent:-

Gopinathan, aged 60 years, S/o. Parekkattil Paran,
Porathissery Desom, Porathissery Village,
Mukundapuram Taluk.

By Advs. M.Iben Mathen & Manoj Iben

This petition come up before me for hearing on this day the court passed the following :-

ORDER

This petition is filed under section 5 of the Limitation Act to condone the delay of 901 days in filing the appeal.

2. The petitioner is the appellant in the above matter. According to the petitioner, he is the respondent/tenant in RCP 22/2019 on the file of the Rent Control Court, Irinjalakuda. The Rent Control Petition was dismissed on 26/07/2023. Against the order, the respondent herein/landlord has filed an appeal as RCA 68/2023. Now, the petitioner herein came to understand that finding of the trial court regarding the bonafide need is in favour of the respondent herein/landlord. The earlier counsel appeared for the petitioner herein/tenant did not inform this fact. Since the said counsel could not appear before the court due to his ill health, the petitioner herein entrusted the matter to the present counsel and then only he came to understand that the issue regarding the bonafide need is answered in favour of the respondent herein/landlord and now only he got advice that an appeal has to be filed to challenge

the finding found in favour of the respondent herein/landlord. Due to the above reasons, a delay of 901 days was caused in filing the appeal. There is no willful default on his part. Hence, it is necessary to condone the delay of 901 days in filing the appeal.

3. Notice was issued to the respondent/landlord. The respondent/landlord appeared and filed counter statement. According to respondent, there is no sufficient reason stated in the petition to condone the delay and the petition is filed to harass the respondent. Hence, the petition is liable to be dismissed.

4. Heard both sides.

5. According to the petitioner/tenant, he is the respondent/tenant in RCP 22/2019 on the file of the Rent Control Court, Irinjalakuda. The Rent Control Petition was dismissed on 26/07/2023. Against the order, the respondent herein/landlord has filed an appeal as RCA 68/2023. Now, the petitioner herein came to understand that finding of the trial court regarding the bonafide need is in favour of the respondent herein/landlord. The earlier counsel appeared for the petitioner herein/tenant did not inform this fact. Since the said counsel could not appear before the court due to his ill health, the petitioner herein entrusted the matter to the present counsel and then only he came to understand that the issue regarding the bonafide need is answered in favour of the respondent herein/landlord and now only he got advice that an appeal has to be filed to challenge the finding found in favour of the respondent herein/landlord. Due to the above reasons, a delay of 901 days was caused in filing the appeal. There is no willful default on his part.

6. Before considering the issue regarding the delay, the issue regarding the maintainability of the appeal has to be considered first.

7. It is pertinent to note that, the Rent Control Petition No.22/2019 filed by the respondent herein/landlord under section 11(3) and 11(4)(ii) of the Kerala Buildings (Lease and Rent Control) Act, 1965 was dismissed on 26/07/2023. The impugned order would show that the

Rent Control Court raised six points for consideration and the first point for consideration was whether the need put forward by the respondent therein/landlord is bonafide and the Rent Control Court found that the proposed need of the respondent herein/landlord is bonafide. But, while answering the other points, the Rent Control Court found that the petitioner herein/tenant has established the existence of vacant rooms in the possession of the respondent herein/landlord and that petitioner herein/tenant is depending on the income deriving from the business conducting in the petition schedule room and hence the respondent herein/landlord is not entitled to get the vacant possession of the petition schedule room. It is also an admitted fact that an appeal was preferred by the respondent herein/landlord challenging the order of the Rent Control Court and the same is pending as RCA 68/2023 before this Appellate Authority.

8. In ***Mangada Susheela and others vs. Thavarayil Balakrishnan and others (2014 KHC (1) 817)***, the Hon'ble High Court of Kerala held that the finding under the second proviso to S.11(3) of the Act is not a separate order on any of the grounds in the Rent Control Act, but it constitutes a finding which forms part of an order under S.11(3) of the Act. When the Rent Control Court found that the landlord did not establish the bona fide need and also found that the tenant failed to establish the ingredients of the second proviso to S.11(3) of the Act, the necessary consequence is dismissal of the Rent Control Petition. The tenant cannot file an appeal against the finding under the second proviso to S.11(3) of the Act, since the ultimate finding in the Rent Control Petition in respect of the ground under S.11(3) is in favour of the tenant. So it is well settled position of law that no appeal lies against the finding only and the petitioner could challenge it only in the appeal filed by the respondent herein/landlord against the order of dismissal. The petitioner herein/tenant could do so by challenging the finding regarding the bonafide need found in favour of the respondent herein/landlord and at

the same time, supporting the ultimate conclusion arrived at by the Rent Control Court, namely, dismissal of the Rent Control Petition.

9. Hence in view of the settled position of law that the petitioner herein/tenant cannot file an appeal only against the finding regarding the bonafide need of the landlord as the ultimate finding in the Rent Control Petition in respect of the ground under section 11(3) of the Kerala Buildings (Lease and Rent Control) Act is in favour of the petitioner/tenant, the petition filed to condone the delay to prefer the Rent Control Appeal is liable to be dismissed.

In the result, the petition to condone the delay of 901 days caused in filing the appeal is dismissed as the Rent Control Appeal itself is not maintainable.

(Dictated to the Confidential Asst., transcribed by her corrected by me and pronounced in open court, this the 17th day of March, 2026).

Sd/-

Vinod Kumar N
Rent Control Appellate Authority
Irinjalakuda

Appendix – Nil

Id/-

Vinod Kumar N
Rent Control Appellate Authority
Irinjalakuda
By order

/True copy /

Sheristadar

Copied by: Baby C F
Compared by: Jismy K J