

**IN THE COURT OF THE ADDL. RENT CONTROL APPELLATE
AUTHORITY - II, THIRUVANANTHAPURAM**

**PRESENT:SRI. RAJIV JAYARAJ, ADDL. RENT CONTROL
APPELLATE AUTHORITY -II
(Addl. District Judge-II)**

Tuesday, 9th day of June, 2026/ 19th day of Jyeshtha, 1948

RCA No.12/2025

(Against the order dated 12/12/2024 in RCP No.17/2019 of the Rent
Control Court, Thiruvananthapuram)

Appellant/Respondents in RCP:-

- 1 Ayurveda Oushadha Nirmana Vyavasaya
 Co-operative Society, Kannettumukku,
 Thycaud P.O., Thiruvananthapuram-695014.
 Represented by its Secretary
- 2 The Secretary, Ayurveda Oushadha
 Nirmana Vyavasaya Co-operative Society
 Kannettumukku, Thycaud P.O.,
 Thiruvananthapuram-695014.
- 3 The President, Ayurveda Oushadha Nirmana
 Vyavasaya Co-operative Society, Kannettumukku,
 Thycaud P.O., Thiruvananthapuram-695014.

(By Advocate Abhishek R.V.)

Respondents/Petitioners in RCP:-

- 1 Nirmala Devi (since deceased),
 D/o Bhagavathy Amma, residing at Suit No.11,
 2nd Princep Lane, Calcutta-700072
- 2 Vijayalekshmi, aged 65 years,
 W/o Late Arun Kurukkal, residing at Suit No.11,
 2nd Princep Lane, Calcutta-700072

- 3 Rahul Kurukkal, aged 28 years,
S/o late Arun Kurukkal, residing at Suit No.11,
2nd Princep Lane, Calcutta-700072
- 4 Mallika Kurukkal @ Mallika Kumar,
D/o late Nirmala Devi, residing at T.C.41/1728,
Thycaud Village, Thiruvananthapuram.
- 5 Raj Kurukkal, S/o Late Nirmala Devi,
residing at Suit No.11, 2nd Princep Lane,
Calcutta, West Bengal.
- 6 Arun Ray, H/o late Mala Gurukkal,
residing at Suit No.11, 2nd Princep Lane,
Calcutta, West Bengal-700072
- 7 Amrita Ray, D/o Late Mala Gurukkal,
residing at Suit No.11, 2nd Princep Lane,
Calcutta, West Bengal-700072
- 8 Abhishek Ray, S/o Late Mala Gurukkal,
residing at Suite No.11, 2nd Princep Lane,
Calcutta, West Bengal-700072

R1. No more.

**(By Advocates Biji P.S, K.S. Gopinathan &
Vijayalekshmi G. for R2 to R5, 7 & 8)**

No valkalath for R6

This RCA having been finally heard on **05/06/2026** and the court on **9/6/2026** delivered the following:

J U D G M E N T

The respondents in RCP No.17 of 2019, namely the Co-operative Society and its Secretary and President representing the Society, are the

appellants in this RCA. They challenge the order dated 12.12.2024 passed by the Rent Control Court, Thiruvananthapuram, whereby the court held that the denial of landlord-tenant relationship raised by them is not bona fide.

2. The petitioners in the RCP contended that they are the landlords of the petition schedule building bearing Door **No. TC 24/1515** situated in 19 cents of property. According to them, the property and building originally belonged to the mother of the first petitioner and her four children, who are co-owners thereof. The Rent Control Petition was initially instituted by the mother and the children of one of the deceased sons. During the pendency of the proceedings, the mother died and her heirs were impleaded as additional petitioners.

3. The Rent Control Petition was filed seeking eviction of the respondents under Sections 11(2)(b), 11(3) and 11(4)(ii) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as “the Act”).

4. The petitioners contended that the respondent Society was inducted into the petition schedule building as tenant pursuant to a rent deed dated 15.07.1980 executed between the first petitioner and the Society on a monthly rent of ₹1,500/-. According to them, the rent was subsequently

enhanced from time to time and eventually fixed at ₹6,000/- per month. It was further contended that the petitioners bona fide require the building for their own occupation and that the respondents are also liable to be evicted on the other statutory grounds raised in the petition.

5. The respondent Society resisted the petition contending, inter alia, that no landlord-tenant relationship existed between the parties. The Society denied the title of the petitioners and contended that an enquiry under the second proviso to Section 11(1) of the Act was necessary in order to determine whether the denial of title raised by them is bona fide.

6. Accordingly, the Rent Control Court conducted an enquiry confined to the question whether the denial of title and landlord-tenant relationship raised by the respondents is bona fide.

7. Upon consideration of the materials on record, the Rent Control Court, by the impugned order dated 12.12.2024, held that the denial raised by the respondents is not bona fide, rejected their objections and permitted the petitioners to proceed with the Rent Control Petition. The correctness of the said order is under challenge in this appeal.

8. The points that arise for determination are :

1. Is the denial of title bonafide ?

2. Is the impugned order liable to be set aside ?

9. **Point Nos.1 & 2** :- The appellants denied the title of the petitioners principally on two grounds. Firstly, it was contended that all the co-owners of the property and building had neither joined the execution of the rent deed nor joined as petitioners in the Rent Control Petition. Secondly, it was contended that prior to the institution of the eviction proceedings, the first petitioner and one of her daughters had jointly executed an agreement for sale dated 20.12.2003 in favour of the respondent Society in respect of the petition schedule building and the 19 cents of land for a total sale consideration of ₹18 lakhs, after receiving an advance amount of ₹5 lakhs and undertaking to execute the sale deed within a period of twelve months.

10. On the strength of the said agreement for sale, the appellants contended that the jural relationship between the parties underwent a change and that, thereafter, the status of the Society as tenant ceased to exist. According to them, in view of the alleged shift in the jural relationship, a petition for eviction under the provisions of the Act was not maintainable.

11. The Rent Control Court considered the rival contentions and examined the materials on record. Significantly, the respondent Society does not dispute the execution of the lease deed dated 15.07.1980 nor do the

petitioners dispute the execution of the agreement for sale dated 20.12.2003. In both these documents, the Society had accepted the first petitioner as the owner and landlord of the petition schedule building and property.

12. Under Section 116 of the Indian Evidence Act, 1872, a tenant who has been inducted into possession under the landlord is estopped from denying the title of the landlord at the commencement of the tenancy. Once the tenancy arrangement between the parties is admitted or established, the tenant ordinarily cannot dispute the title of the landlord under whom possession was obtained. The petitioners themselves have no case that the property exclusively belongs to the first petitioner. On the contrary, their consistent case is that the building and property belong jointly to the mother and her four children as co-owners. The legal concept governing co-ownership is well settled. Every co-owner is, in the eye of law, owner of every inch of the undivided property along with the others. Each co-owner has right in every part of the property and building until partition. It is equally well settled that one co-owner is competent to induct a tenant into the property on behalf of the other co-owners, even if the remaining co-owners have not joined in the execution of the lease deed. Therefore, merely because some of the co-owners did not join the execution of the rent deed, the tenant

who entered possession pursuant thereto cannot contend that the executant co-owner lacked competence to create the tenancy or that the tenancy itself is invalid.

13. Likewise, it is a settled principle of law that one co-owner is competent to institute and maintain eviction proceedings against the tenant even if the other co-owners are not arrayed as petitioners, provided there is no opposition from the remaining co-owners. Section 2(3) of the Act defining “landlord” also makes the position explicit. The definition includes not only a person who receives rent but also a person who is entitled to receive rent on his own behalf or on behalf of others. In the case on hand, the Rent Control Petition was initially instituted by the mother and the children of her deceased son. Subsequently, upon the death of the mother during the pendency of the proceedings, her other heirs were also brought on record. Practically all the co-owners are thus before the court, though some of them were impleaded subsequently in their capacity as legal representatives of the deceased petitioner. At no stage of the proceedings is there anything on record to indicate, either from the pleadings or from the conduct of any of the petitioners, that the Rent Control Petition was instituted without the consent of any of the co-owners or that the proceedings were not intended for their

common benefit. On the contrary, the conduct of the parties unmistakably indicates that the lease transaction evidenced by the rent deed dated 15.07.1980 was entered into for the benefit and in the larger interests of all the co-owners and with their knowledge and tacit consent. Pursuant thereto, the respondent Society was inducted into the petition schedule building as tenant.

14. The principal contention advanced by the appellant Society is that, with the execution of the agreement for sale dated 20.12.2003 by the first petitioner and one of her daughters in favour of the Society, coupled with receipt of an advance amount of ₹5 lakhs, the jural relationship between the parties underwent a change and, consequently, the petitioners ceased to have the right to invoke the provisions of the Act for eviction. The petitioners do not dispute execution of the agreement for sale or receipt of the advance amount. The agreement contemplated execution of the sale deed within a period of twelve months. Admittedly, however, no sale deed came to be executed within the stipulated period, which ultimately resulted in litigations between the parties. The materials on record reveal that the first petitioner thereafter entered into another agreement for sale in favour of one Sri.Girikumar Nair. This prompted the respondent Society to institute O.S.

No.400/2006 seeking an injunction restraining execution of the sale deed in favour of the said Girikumar Nair. Subsequently, the Society instituted O.S. No.310/2006 for specific performance of the agreement dated 20.12.2003, while Sri Girikumar Nair instituted O.S. No.269/2006 seeking similar relief before the Sub Court, Thiruvananthapuram. Both suits were jointly tried and ultimately dismissed by judgment dated 23.11.2008 directing return of the advance amount received by the vendors. O.S.400/2006 was however dismissed as not pressed. The learned counsel for the appellants submitted that the decree dismissing the suits is under challenge before the Hon'ble High Court of Kerala and that the judgment has not attained finality or conclusiveness.

15. It is true that the appeals are stated to be pending. Nevertheless, mere pendency of an appeal does not render the decree inoperative unless its operation is stayed or suspended by the appellate court. As matters presently stand, the dismissal of the suits continues to operate and bind the parties unless and until the same is reversed or modified by the appellate court. More importantly, mere execution of the agreement for sale dated 20.12.2003 does not, by itself, establish that the pre-existing landlord-tenant relationship between the parties stood terminated. There is nothing in the recitals of the

agreement indicating that the parties intended to treat the lease arrangement created under the rent deed dated 15.07.1980 as having come to an end. Neither an express stipulation nor any implied term can be discerned from the agreement to suggest surrender or extinction of the tenancy. Even otherwise, the settled legal position is that the mere execution of an agreement for sale between a landlord and tenant does not automatically alter or extinguish the jural relationship of landlord and tenant unless such intention is either expressly stated in the document or necessarily implied from the conduct of the parties and surrounding circumstances.

16. In the present case, no convincing material has been brought on record to establish that the pre-existing lessor-lessee relationship ceased upon execution of the agreement for sale. On the contrary, the subsequent litigations and the eventual dismissal of O.S. Nos.269/2006 and 310/2006 considerably weaken the contention of the appellants that the tenancy stood transformed into some other legal relationship. The Rent Control Court considered all the relevant factual and legal aspects in proper perspective and rightly arrived at the conclusion that the denial of landlord-tenant relationship raised by the appellants is not bona fide.

17. The “denial of title” contemplated under the second proviso to

Section 11(1) of the Act is not a question relating to absolute proprietary title in the manner examined in a comprehensive civil suit for declaration of title. The enquiry under the said proviso is confined to ascertaining whether there exists a bona fide dispute regarding the jural relationship which entitles the eviction petitioner to maintain the proceedings as landlord.

18. In the present case, the conduct of the respondent Society in having executed the rent deed and entered possession pursuant thereto clearly attracts the principle of estoppel embodied in Section 116 of the Evidence Act. Having accepted the tenancy under the petitioners, the Society is estopped from denying the title and status of the executant co-owner as landlord at the commencement of the tenancy. Equally, none of the subsequent events or conduct relied upon by the appellants is sufficient to establish that the pre-existing landlord-tenant relationship either ceased to exist or stood transformed into a different legal relationship. Mere execution of the agreement for sale, in the absence of any express or implied surrender of tenancy, cannot by itself extinguish the jural relationship of landlord and tenant. In the above circumstances, this Court finds no reason to interfere with the finding entered by the Rent Control Court that the denial of title and landlord-tenant relationship raised by the appellants is not bona fide.

In the result, the appeal fails and is accordingly dismissed. The respondents in the appeal shall be entitled to proceed with the eviction petition without any legal impediments. It is, however, made clear that the eviction proceedings in RCP No.17/2019 and any final adjudication therein shall remain subject to the outcome of the appeals stated to be pending before the Hon'ble High Court of Kerala arising from the judgments in O.S. Nos.269/2006 and 310/2006.

Dictated to the Confidential Assistant, typewritten by her in the computer, corrected and pronounced in the Open Court by me on the 9th day of June, 2026.

Sd/-

RAJIV JAYARAJ
Addl. Rent Control Appellate
Authority -II (Addl. District Judge-II)

Appendix: NIL

Id/-

Addl. Rent Control Appellate
Authority -II (Addl. District Judge-II)

True Copy

By Order

(Copies-3)

Typed by:Anupama

Comp by:Manjusha

F.C.S.

SHERISTADAR

Copy of Judgment in
RCA No.12/2025
Dated:9/6/2026