



R.C.(Rev.)No.29 of 2025

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2025:KER:8654

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

TUESDAY, THE 4TH DAY OF FEBRUARY 2025 / 15TH MAGHA, 1946

RCREV. NO. 29 OF 2025

AGAINST THE JUDGMENT DATED 25.11.2024 IN RCA NO.11 OF 2023 OF
THE RENT CONTROL APPELLATE AUTHORITY, ERNAKULAM, ARISING OUT OF
THE ORDER DATED 03.12.2022 IN RCP NO.28 OF 2018 OF THE RENT
CONTROL COURT, ERNAKULAM

REVISION PETITIONERS/APPELLANT/RESPONDENT:

MANOJ N.J, AGED 48 YEARS
S/O. N.V JOSEPH NADUVILEMULLOTH HOUSE,
PUTHENPALLY VARAPPUZHA PO,
ERNAKULAM DISTRICT, PIN - 683517

BY ADVS.
SADCHITH.P.KURUP
C.P.ANIL RAJ
SIVA SURESH
B.SREEDEVI
ATHIRA VIJAYAN

RESPONDENTS/RESPONDENTS/PETITIONERS:

1 HAJARA SAHEER
W/O LATE SAHEER,
ANTHROLIL HOUSE,
THAIKATTUKARA P.O, ALUVA
ERNAKULAM, PIN - 683106



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2 SUFIL SAHEER
S/O LATE SAHEER, ANTHROLIL HOUSE,
THAIKATTUKARA P.O, ALUVA,
ERNAKULAM, PIN - 683106

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON
04.02.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**A.MUHAMED MUSTAQUE & P.KRISHNA KUMAR, JJ**-----
R.C.(Rev.)No.29 of 2025
-----Dated this the 4th day of February, 2025**ORDER**A.Muhamed Mustaque.J

The revision petitioner is the appellant in R.C.A.No.11 of 2023 on the file of the Rent Control Appellate Authority. The Rent Control Appellate Authority passed an order on 25.11.2024 under Section 12(1) of the Kerala Buildings (Lease and Rent Control) Act, 1965, directing the appellant to pay the rent from 5.11.2022 at the rate of Rs.9,075/-. The appellant did not pay the amount. Thereafter, the Rent Control Appellate Authority was constrained to pass an order under Section 12(3) of the Act, stopping the appeal proceedings. This is questioned before this Court.

2. The case of the revision petitioner is that he is not a tenant, and therefore, the appellate court ought to have decided the question regarding maintainability. It is further submitted that the revision petitioner was permitted to construct a building on the land belonging to the respondent, and therefore, the building belongs to the revision petitioner, and the land belongs to the respondent. It is to be



noted that this contention was raised before the Rent Control Court.

Absolutely no documents were produced before the Rent Control Court by the revision petitioner to prove that he is the owner of the building and the respondent is the owner of the land. However, it seems that an attempt is being made by the revision petitioner to produce a document before the appellate authority to prove that he is the owner of the building. It is submitted that the revision petitioner is now in possession of an agreement which will indicate that the revision petitioner is the owner of the building and the respondent is the owner of the land. It is submitted that without giving the revision petitioner an opportunity to prove that there exists no building, when the building was leased the appellate court could not have ordered payment of rent arrears. The appellant placed reliance on the judgment of the Hon'ble Apex Court in **Asma Lateef v. Shabbir Ahmad** (2024 KHC 6029). The learned counsel for the revision petitioner points out paragraph 39 of the above judgment and submits that without deciding the question of maintainability as a preliminary issue, the appellate court cannot exercise its power under Sections 12(1) and 12(2) of the Act. We are not impressed with this argument for the simple reason that the revision petitioner has already suffered an order, and the appellate court can now decide only based on the order passed by the Rent Control Court. There is no dispute with



regard to the amount due towards licence fee, according to the revision petitioner. Whether the revision petitioner can adduce further evidence in appeal is a matter which the appellate court has to decide. As on the records now and based on the finding of the Rent Control Court, the revision petitioner is the tenant. Unless and until it is reversed in appeal, the appellant cannot challenge the eviction. Therefore, the order now passed is based on the finding already on record and this Court cannot find any impropriety with such an order.

3. Taking note of the peculiar facts and circumstances of the case, we grant two weeks more time from today to the revision petitioner to pay the entire arrears of rent, as ordered by the appellate court. If the arrears of rent is paid as above, the appeal will stand restored for consideration.

The Rent Control (Rev.) is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

P.KRISHNA KUMAR, JUDGE