



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

MONDAY, THE 16TH DAY OF JUNE 2025 / 26TH JYASHTA, 1947

RCREV. NO. 123 OF 2025

AGAINST THE JUDGMENT DATED 16.12.2024 IN RCA NO.6 OF 2023 OF III REN
CONTROL APPELLATE AUTHORITY, PALAKKAD ARISING OUT OF THE ORDER DATED
20.12.2022 IN RCP NO.8 OF 2015 OF RENT CONTROL (MUNSIFF) COURT, CHITTUR

REVISION PETITIONER/APPELLANT/2ND RESPONDENT:

NILAVARNNEESA, AGED 45 YEARS, D/O.AALIKUTTY, PALLIKOODAM
HOUSE, 5/368, ESALA, VATTARAM, PUDUNAGARAM VILLAGE, CHITTUR
TALUK, PALAKKAD DISTRICT, PIN – 678 503.

BY ADVS.
SHRI.K.N.ABHILASH
SHRI.SUNIL NAIR PALAKKAT
SHRI.RISHI VARMA T.R.
SHRI.RITHIK S.ANAND
SHRI.T.R.ANIL VENUGOPAL
SHRI.SREEJITH A.
SMT.TEENA M. ASHOK

RESPONDENTS/RESPONDENTS & SUPPL. RESPONDENTS 13 TO 19/PETITIONERS &

RESPONDENTS 3 TO 7:

- 1 MUHAMMED MANSOOR, AGED 78 YEARS,
S/O.ABDUL MAJEED, PUDUNAGARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.
- 2 MALIHA BEEBI, AGED 76 YEARS,
D/O.ABDUL MAJEED, PUDUNAGARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.



- 3 MUMTHAJ BEEGAM, AGED 72 YEARS,
D/O.ABDUL MAJEED, PUDUNAGARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.
- 4 SHAMSAD, AGED 70 YEARS, D/O.ABDUL MAJEED, PUDUNAGARAM,
PUDUNAGARAM VILLAGE, CHITTUR TALUK, PALAKKAD DISTRICT,
PIN – 678 503.
- 5 NASARUDHEEN, AGED 68 YEARS,
S/O.ABDUL MAJEED, PUDUNAGARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.
- 6 MUHAMMED MUKTHAR, AGED 66 YEARS,
S/O.ABDUL MAJEED, PUDUNAGARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.
- 7 HUMAYOON KABEER, AGED 59 YEARS,
S/O.ABDUL MAJEED, PUDUNAGARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.
- 8 HAMSA, AGED 69 YEARS,
S/O. ALIKKUTTI @ ALI MUHAMMED, 5/368, PALLIKOODAM HOUSE,
ISALA VATTARAM, PUDUNAGARAM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT, (DIED)., PIN – 678 503.
- 9 SHAMSUDHEEN, AGED 58 YEARS
S/O.ABDUL KHADER, 5/368, PALLIKOODAM HOUSE, ISALA VATTARAM,
PUDUNAGARAM VILLAGE, CHITTUR TALUK, PALAKKAD DISTRICT,
PIN – 678 503.
- 10 SHAMSEENA, AGED 32 YEARS, D/O.SHAMSUDHEEN, 5/368,
PALLIKOODAM HOUSE, ISALA VATTARAM, PUDUNAGARAM VILLAGE,
CHITTUR TALUK, PALAKKAD DISTRICT, PIN – 678 503.
- 11 SHANI, AGED 28 YEARS, D/O.SHAMSUDHEEN, 5/368, PALLIKOODAM
HOUSE, ISALA VATTARAM, PUDUNAGARAM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT, PIN – 678 503.
- 12 SANOOP, AGED 24 YEARS, S/O.SHAMSUDHEEN, 5/368, PALLIKOODAM
HOUSE, ISALA VATTARAM, PUDUNAGARAM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT, PIN – 678 503.
- 13 HAJIRA, W/O. (LATE) HAMSA, SATHRAVATTARAM, PUTHUNAGARAM
PANCHAYAT, CHITTY TALUK, PALAKKAD, PIN – 678 507.
- 14 MUHAMMED SHEREEF. H., AGED 43 YEARS,
S/O. (LATE) HAMSA, KOSAKKADA, NEAR BHARAT PETROL PUMP,



ANGALAMMAL KOVIL, PUTHUNAGARAM PANCHAYAT, CHITTUR TALUK,
PALAKKAD, PIN – 678 507.

- 15 SUHRA, AGED 44 YEARS, D/O. (LATE) HAMSA, SATHRAVATTARAM,
PUTHUNAGARAM PANCHAYAT, CHITTUR TALUK, PALAKKAD,
PIN – 678 507.
- 16 ANSAR, AGED 40 YEARS, S/O. (LATE) HAMSA, SATHRAVATTARAM,
PUTHUNAGARAM PANCHAYAT, CHITTUR TALUK, PALAKKAD,
PIN – 678 507.
- 17 RAJEENA, AGED 36 YEARS, W/O. (LATE) MOHAMMED HANEEFA,
SATHRAVATTARAM, PUTHUNAGARAM PANCHAYAT, CHITTUR TALUK,
PALAKKAD, PIN – 678 507.
- 18 HANA FATHIMA, AGED 10 YEARS, D/O. (LATE) MOHAMMED HANEEFA,
REP. BY HER MOTHER RAJEENA, W/O. (LATE) MOHAMMED HANEEFA,
SATHRAVATTARAM, PUTHUNAGARAM PANCHAYAT, CHITTUR TALUK,
PALAKKAD, PIN – 678 507.
- 19 IBRAHIM, AGED 6 YEARS, S/O. (LATE) MOHAMMED HANEEFA, REP. BY
HER MOTHER RAJEENA, W/O. (LATE) MOHAMMED HANEEFA,
SATHRAVATTARAM, PUTHUNAGARAM PANCHAYAT, CHITTUR TALUK,
PALAKKAD, PIN – 678 507.

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 11.06.2025,
THE COURT ON 16.06.2025 DELIVERED THE FOLLOWING:



A.MUHAMED MUSTAQUE & JOHNSON JOHN, JJ.

R.C. Rev. No. 123 of 2025

Dated this the 16th day of June, 2025

O R D E R

Johnson John, J.

The concurrent findings and order of eviction passed under Sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965 ('the Act' for short) by the Rent Control Court and appellate authority are under challenge in this revision petition.

2. The revision petitioner contends that there is no landlord-tenant relationship, in as much as the petition schedule building collapsed even prior to the filing of the eviction petition. It is also contended that there is no notice demanding arrears of rent, that the need alleged is not *bona fide*, and that the revision petitioner is entitled for the benefit of the first proviso to Section 11(3) of the Act.

3. Heard the learned counsel for the revision petitioner and the learned counsel for the respondents.

4. The learned counsel for the revision petitioner argued that the petition schedule building crumbled down in the heavy monsoon in 2011



and the revision petitioner is residing at a separate space towards the southern side of the property where the petition schedule building was situated.

5. The petition schedule building originally belonged to one Sulekha Beevi and after her death, it devolved to her brother, Abdul Majeed, and on the death of Abdul Majeed, it devolved to the original petitioners who filed the eviction petition. In a previous suit with respect to the same subject matter, ie., in O.S. 594 of 2008, it was held that there exists a landlord-tenant relationship between the parties.

6. Before the Rent Control Court, the denial of title and landlord-tenant relationship was considered as a preliminary issue and as per the order dated 19.12.2019, the Rent Control Court found that the denial of title is not *bona fide* and that there exists a landlord-tenant relationship between the parties. The said order was challenged in R.C.A No. 18 of 2019; but, the appellate authority confirmed the finding of the Rent Control Court and the same was challenged in R.C.Rev. No. 83 of 2020 before this Court. But, this Court dismissed R.C.Rev. No. 83 of 2020



confirming the findings of the Rent Control Court and the appellate authority that the denial of title and landlord-tenant relationship is not *bona fide*.

7. The learned counsel for the revision petitioner cited the decision of this Court in ***Sidharthan v. Ramadasan*** [1984 KHC 162] and the judgment of the Honourable Supreme Court in ***Vannattankandy Ibrayi v. Kunhabdulla Hajee*** [(2001) 1 SCC 564] in support of the argument that where tenancy was exclusively for the building or structure, it would stand extinguished, if the subject matter of the tenancy were destroyed by natural calamity.

8. The learned counsel for the respondents cited the decisions of the Honourable Supreme Court in ***T. Lakshmipathi v. P. Nithyananda Reddy*** [(2003) 5 SCC 150] and ***Shaha Ratansi Khimji & Sons v. Kumbhar Sons Hotel (P) Ltd.***, [(2014) 14 SCC 1] and argued that building or structure and land are both normally the subject matter of lease and even if the building or superstructure is destroyed, that would not determine the lease, when the land which is the site of the building, continues to exist.



9. In ***Shaha Ratansi Khimji's*** case, a three-Judge Bench of the Honourable Supreme Court analysed the conflicting views in the previous two-Judge Bench decisions and overruled the decision rendered in ***Vannattankandy Ibrayi's*** case holding that the view taken in the said case that the rights stand extinguished as on the distinction of the demise, for there is destruction of the superstructure and in its non-existence, there is no subject matter, was by excluding the land out of the concept of subject-matter. It was also held that in the said case, the court failed to appreciate that there are two categories of subject-matters combined in a singular capsule, which is the essence of the provision under the Transfer of Property Act and not restricted to a singular one, that is, the superstructure. In paragraph 24 of the said decision, it was held thus:

“24. As we notice from the aforesaid analysis it is founded on an interpretation of Section 108(B)(e) by assuming that when a building or structure is leased out, it is the superstructure that is leased out in exclusivity. As we perceive, the language employed in Section 108(B)(e) does not allow such a construction. The singular exception that has been carved out is the wrongful act or default on the part of the lessee which results in the injury to the property that denies the benefit. In all



other circumstances which find mention under Section 111 of the Act, are the grounds for determination of the lease. This is the plainest construction of the provision and there is no other room for adding to or subtracting anything from it. Be it stated, Section 108 postulates the rights and liabilities of lessor and lessee. If a right is not conferred by the statute on the lessor for determination, except one exception which is clearly stipulated there in Section 108(B)(e) by the legislature, it would not be permissible for the court to add another ground of the base or fulcrum of ethicality, difficulty or assumed supposition.”

10. Admittedly, the revision petitioner is residing in the property and therefore, the contention that there is no landlord-tenant relationship, for the reason that the building or the superstructure is destroyed, is not legally sustainable. In the present case, it is relevant to point out that the Rent Control Court considered the plea of denial of title as a preliminary issue and against the concurrent findings of the Rent Control Court and the Rent Control Appellate Authority that the denial of title is not *bona fide*, RCR No. 83 of 2020 was filed before this Court and as per the order dated 31.05.2022, this Court dismissed the revision petition confirming the findings of the authorities below that the denial of title is not *bona fide*. Therefore, in view of Section 15 of the Act, the tenant cannot reagitate the said issue in this revision petition.

11. The Rent Control Court and the appellate authority found that the landlord issued Exhibit A4 notice demanding arrears of rent from December 2009 onwards and that Exhibits A4(c) and A4(d), postal



acknowledgement cards, would show that the same was received by the tenants.

12. The *bona fide* need set up by the landlords is for the residential purpose of original petitioners 4 and 5 and the evidence of PW1, the original 4th petitioner, shows that original petitioners 4 and 5 are widows and they have no permanent place of residence and they are living with the assistance of others and both the authorities below accepted the evidence of PW1 in this regard to record a finding that the need alleged is *bona fide*. The authorities below also held that the tenant is not entitled for the protection of the first proviso to Section 11(3) of the Act, in as much as there is no evidence to prove that any other building is available in the ownership or possession of petitioners 4 and 5 for their residential purpose.

13. It is well settled that while exercising the jurisdiction under Section 20 of the Act, this Court cannot re appreciate the evidence on record in order to come to a different conclusion on any factual issues, unless the finding is either erroneous or perverse, as held by the



Honourable Supreme Court in ***Hindustan Petroleum Corpn. Ltd. v. Dilbahar Singh [(2014) 9 SCC 78]***. We find no illegality or impropriety in the impugned orders of the Rent Control Court and the appellate authority warranting interference in revision.

In the result, this revision petition is dismissed.

sd/-
A.MUHAMED MUSTAQUE,
JUDGE.

sd/-
JOHNSON JOHN,
JUDGE.

Rv