

Devadas vs Anil Kumar Rao

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Court : Kerala Orders

Decided On : Apr-02-2025

Judge : Honourable Mr. Justice a.Muhamed Mustaque,Honourable Mr.Justice P. Krishna Kumar

Appeal No. : RCRRev./222/2023

Appellant : Devadas

Respondent : Anil Kumar Rao

Judgement :

RCR 222 of 2023 1 2025:KER:27859

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947 RCREV. NO. 222 OF 2023 AGAINST THE ORDER DATED 11.07.2023 IN RCA NO.14 OF 2019 OF THE RENT CONTROL APPELLATE COURT, KASARAGODE ARISING OUT OF THE

ORDER DATED 29.08.2019 IN RCP NO.1 OF 2019 OF RENT CONTROL COURT,

HOSDRUG REVISION PETITIONER/APPELLANT IN CRA/RESPONDENT (TENANT) IN RCP: DEVADAS, AGED 59 YEARS S/O. LATE H.N. HEGDE, KMCW NO. 111/806, POOJA STORE, VISMAYA COLLECTIONS, NEAR DR. WHEELS, HOSDURG VILLAGE AND TALUK, KASARAGOD, PIN - 671315 BY ADVS. K.JAYESH MOHANKUMAR PUSHPARAJAN KODOTH VANDANA MENON VIMAL VIJAY RESPONDENT/RESPONDENT IN CRA/PETITIONER (LANDLORD) IN RCP: ANIL KUMAR RAO, AGED 63 YEARS S/O. GANGADHAR RAO, MANAGER, SRI DEVI BHANDARA, NEAR NITHYANANDASHRAMAM, HOSDURG VILLAGE AND TALUK, KASARAGOD - 671 315 RCR 222 of 2023 2 2025:KER:27859 REPRESENTED BY ITS POWER OF ATTORNEY HOLDER - ASWIN KUMAR G RAO, AGED 40 YEARS, S/O. GANGADHAR G RAO, R/AT DURGA NIVAS, NEAR NITHYANANDASHRAMAM, HOSDURG VILLAGE AND TALUK , KASARAGOD, PIN - 671315 BY ADVS. SURESH KUMAR KODOTH SUKARNAN(K/001572/2021) THIS RENT CONTROL REVISION HAVING COME UP FOR HEARING ON 24.03.2025, THE COURT ON 02.04.2025 PASSED THE FOLLOWING: RCR 222 of 2023 3 2025:KER:27859

ORDER

P. Krishna Kumar, J.

In the rent control proceedings initiated by the respondent herein under Section 11(2), 11(3) and 11(4) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (the Act, for short), the petitioner herein raised a preliminary question as to the maintainability of the proceedings. According to him, the original owner of the tenanted premises is one Vasu. The father of the respondent, one Gangadhar Rao, as in the capacity of Power of Attorney holder of Vasu, had been receiving rent regularly from the petitioner. But the respondent herein has no right over the building after the death of Gangadhar Rao. Ashok Kumar, the brother of the respondent, used to collect rent from the petitioner, after the death of their father Gangadhar Rao. The petitioner thus challenged the landlord-tenant relationship on the above grounds.

2. Based on the above contentions, the learned Rent

Control Court and the Rent Control Appellate Authority RCR 222 of 2023 4 2025:KER:27859 proceeded to decide whether the denial of title of the landlord is bona fide or not.

3. The Rent Control Court noted that during the

course of enquiry for deciding the bona fide of denial of title, the respondent herein produced a deed of Will said to have been executed by the Gangadar Rao in favour of the respondent. After considering the decisions reported in Bharathi v. Vinod (2008(1) KLT 93) and Aravindaksha Menon v. Ali Akbar (2011(2) KLT 121), the Rent Control Court found that there is no bona fide in denying the title of the landlord.

4. The Rent Control Appellate Authority also concurred with the said finding. Before the Rent Control

Appellate Authority, the petitioner herein produced another order passed by the Rent Control Court against the respondent herein, in which the opposite party raised a similar question as to the title of the landlord and the court found that the denial is bona fide. However,

the Rent Control Appellate Authority found that the order

passed by the Rent Control Court in a different case has no relevance in another case. RCR 222 of 2023 5 2025:KER:27859

5. Heard the learned counsel appearing for the petitioner and the respondent.

6. It is trite law that the question to be

considered in an enquiry under Section 11(1) of the Act, the paramount title of the landlord has no relevance. His title as a landlord of the person to be evicted alone is relevant in deciding the question under Section 11(1) of the Act [Partha Kumar v. Ajith Viswanathan (2006(2) KLT 250].

7. In this case, the petitioner herein admitted

that he had been paying rent to the father of the respondent. He also admitted that after the death of his father, he started to pay the rent to the brother of the respondent. The respondent claims that he received the proprietary rights of the late Gangadhar Rao over the scheduled-shop on the strength of a Will executed by

him. The Act defines the term landlord in such a way as to include a person who is entitled to receive the rent. At the initial stage of the litigation, this is sufficient for the respondent to maintain an action under the Act. In these circumstances, we find no reason to RCR 222 of 2023 6 2025:KER:27859 interfere with the concurrent findings of both the authorities, at this preliminary stage.

8. The eviction petition was filed in the year 2019

and six years have elapsed since then. Hence, it is necessary to dispose of the matter in a time-bound manner. In the result, the revision petition is dismissed. The Rent Control Court is directed to dispose of the case within three months from the date of receipt of this

order.

Sd/- A.MUHAMED MUSTAQUE JUDGE Sd/- P. KRISHNA KUMAR JUDGE sv

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