

Paul vs Johnson K.Antony

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Court : Kerala Orders

Decided On : Feb-08-2022

Judge : Honourable Mr. Justice Anil K.Narendran,Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : OP (RC)/10/2022

Appellant : PAUL

Respondent : Johnson K.Antony

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ANIL K. NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR TUESDAY, THE 8TH DAY OF FEBRUARY 2022 / 19TH MAGHA, 1943 O.P.(RC)NO.10 OF 2022 AGAINST THE ORDER DATED 03.11.2021 IN I.A.NO.1 OF 2021 IN R.C.P.NO.14 OF 2020 ON THE FILE OF THE RENT CONTROL COURT (MUNSIFF), CHALAKUDY AND SEEKING EARLY DISPOSAL OF R.C.A.NO.41 OF 2021 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, THRISSUR PETITIONER: PAUL, AGED 58 YEARS, S/O. VARAPPUZHAKKARA THALIYATH ITTIYECHAN, EAST CHALAKUDY VILLAGE, CHALAKUDY DESOM, THRISSUR DISTRICT-

680 307 BY ADV T.N.MANOJ RESPONDENTS:

1 JOHNSON K.ANTONY, S/O. KARATHRAKKARAN ANTONY, KIZHEKKE CHALAKUDY VILLAGE, CHALAKUDY TALUK REPRESENTED BY THE POWER OF ATTORNEY HOLDER, WILSON , S/O. ALUKKVEETIL OUSEP, KOODAPUZHA DESOM, KIZHEKKE CHALAKUDY VILLAGE, CHALAKUDY TALUK- 2 MRS. ANITHA JOHNSON, W/O. JOHNSON ANTONY, KARATHRAKKARAN HOUSE, KIZHAKKE CHALAKUDY VILLAGE, CHALAKUDY TALUK REPRESENTED BY THE POWER OF ATTORNEY HOLDER WILSON , S/O. ALUKKVEETIL OUSEP, KOODAPUZHA DESOM, KIZHEKKE CHALAKUDY VILLAGE, CHALAKUDY TALUK-680 307

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 08.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Anil K. Narendran, J.

The petitioner, who is the respondent-tenant in R.C.P.No.14 of 2020 filed by the respondent herein- landlord under Sections 11(2)(b) and 11(3) of the Kerala Buildings (Least and Rent Control) Act, 1965 on the file of the Rent Control Court (Munsiff), Chalakudy and the appellant in R.C.A.No.41 of 2021 on the file of the Rent Control Appellate Authority, Thrissur has filed this original petition seeking a direction to stay all further proceedings for eviction and dispossession of the tenant pursuant to the order dated 03.11.2021 in I.A.No.1 of 2021 in R.C.P.No.14 of 2020 of the Rent Control Court (Munsiff), Chalakudy, till R.C.A.No.41 of 2021 on the file of the Rent Control Appellate Authority, Thrissur, is finally decided and disposed of and also to issue direction to the Rent Control Appellate Authority to dispose of R.C.A.No.41 of 2021, within a time limit.

2. On 28.01.2022, when this original petition

came up for consideration, after arguing for some time, the learned counsel for the petitioner sought time to address arguments on the maintainability of R.C.A.No.41 of 2021, pending before the Rent Control Appellate Authority, Thrissur.

3. On 04.02.2022, when this original petition came up for consideration, this Court passed the following order;

The learned counsel for the petitioner would point out that, after the order under Section 12(1) of the Act, the Rent Control Court passed another order dated 28.01.2022, under Section 12(3) of the Act, which is an order appealable under Section 18(1)(b) of the Act before the Appellate Authority.

4. Today, when this original petition is taken up

for consideration, the learned counsel for the petitioner- tenant seeks permission to withdraw this original petition, without prejudice to the right of the tenant to challenge the order dated 28.01.2022 of the Rent Control Court under Section 12(3) of the Act, by invoking the appellate remedy under Section 18(1)(b) of the Act. In view of the above submission made by the learned counsel for the petitioner-tenant, this original petition is dismissed as withdrawn, without prejudice to the aforesaid right of the tenant. Sd/- ANIL K. NARENDRAN, JUDGE Sd/- P.G. AJITHKUMAR, JUDGE MIN APPENDIX OF O.P.(RC)NO.10 OF 2022 PETITIONER'S EXHIBITS: Exhibit P1 TRUE COPY OF RCOP 14/20 DATED 13.10.2020 FILED BY THE RESPONDENTS BEFORE THE RENT CONTROL COURT AT CHALAKUDY Exhibit P2 TRUE COPY OF THE JUDGMENT IN OP RC HONOURABLE COURT Exhibit P3 TRUE COPY OF THE ORDER DATED 3.11.2021 IN IA 1/2021 IN RCOP 14/20 OF THE RENT CONTROL COURT AT CHALAKUDY Exhibit P4 TRUE COPY OF THE MEMORANDUM OF APPEAL IN RCA 41/2021 DATED 17.12.2021 FILED BEFORE THE 3RD ADDITIONAL DISTRICT COURT AT TRISSUR Exhibit P5 TRUE COPY OF THE PETITION CMA 1/2022 FILED IN RCA 41/2021 DATED 17.12.2021 FILED BEFORE THE 3RD ADDITIONAL DISTRICT COURT AT TRISSUR Exhibit P6 TRUE COPY OF THE PETITION IA 1/2022 FILED IN RCA 41/2021 DATED 17.12.2021 FILED BEFORE THE 3RD ADDITIONAL DISTRICT COURT AT TRISSUR RESPONDENT'S EXHIBITS: NIL.

