

Khalid.K.K. vs Dileesh.a.P.

Khalid.K.K. vs Dileesh.a.P.

SooperKanoon Citation : sooperkanoon.com/1488733

Court : Kerala

Decided On : Oct-19-2022

Judge : Honourable Mr. Justice P.B.Suresh Kumar,Honourable Mrs. Justice C.S. Sudha

Appeal No. : RCRev./200/2014

Appellant : Khalid.K.K.

Respondent : Dileesh.a.P.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RC REV. NO. 185 OF 2014 AGAINST THE JUDGMENT DATED 31.03.2014 IN RCA NO.183 OF 2010 OF THE RENT CONTROL APPELLATE AUTHORITY, ADDT.DISTRICT JUDGE-I,THALASSERY CONCURRING WITH THE COMMON ORDER IN RCP NO.168 OF 2006 DATED 27.02.2010 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY. REVISION PETITIONER/APPELLANT/PETITIONER: KOROTHMKANDY KHALID AGED 62 YEARS S/O MOOSA,

BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR,
THALASSERY, KANNUR DISTRICT. BY ADVS.SRI.G.SREEKUMAR
(CHELUR) SRI.NANDAGOPAL S.KURUP SMT.PREETHY
KARUNAKARAN SRI.K.RAJESH SUKUMARAN SRI.SAYED
MURTHALA THANGAL

RESPONDENT/RESPONDENT/RESPONDENT: SIRAJUDHEEN P.
AGED 43 YEARS S/O ASSUKUTTY,JAYASREE COMPLEX,
NARANGAPURAM, THALASSERY - 670 101. BY ADV
SRI.R.SURENDRAN THIS RENT CONTROL REVISION HAVING
COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH
CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR &
THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE
19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO.
186 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.160 OF 2010
DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL
APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)
(AGAINST THE ORDER PASSED IN RCP NO.153 OF 2006 ON THE
FILE OF THE RENT CONTROL COURT, THALASSERY DATED
27.02.2010)

REVISION PETITIONER/APPELLANT/PETITIONER:
KOROTHMKANDY KHALID AGED 62 YEARS S/O.MOOSA,
BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR,
THALASSERY, KANNUR DISTRICT. BY ADVS.SRI.G.SREEKUMAR
(CHELUR) SRI.K.ASHIS SRI.NANDAGOPAL S.KURUP SMT.PREETHY
KARUNAKARAN SRI.K.RAJESH SUKUMARAN SRI.SAYED
MURTHALA THANGAL
RESPONDENT/RESPONDENT/RESPONDENT: MADANAS
SEKHARAN V.P. AGED 54 YEARS, S/O.SREEDHARAN,

ELECTRICIAN, JAYASREE COMPLEX, NARANGAPURAM, THALASSERRY - 671051. BY ADV SRI.DEEPU THANKAN THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 190 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.176 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.158 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER KOROTHEMKANDY KHALID AGED 62 YEARS, S/O.MOOSA,BUSINESS,RESIDING AT THANEEM, PANIYAROOR,THALASSERY,KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR)

RESPONDENT/RESPONDENT/RESPONDENT: BASHEER ABDULLA P AGED 54 YEARS S/O.ABDULLA,JAYASREE COMPLEX, NARANGAPURAM,THALASSERY-670101. BY ADV SRI.R.SURENDRAN THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE

19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 191 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.184 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.150 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID AGED 62 YEARS S/O.MOOSA, BUSINESS,RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY,KANNUR DISTRICT BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/RESPONDENT: SURENDRAN P.V. AGED 54, S/O.CHANDU NAIR, JAYASREE COMPLEX, NARANGAPURAM,THALASSERY 670 101 BY ADVS.SRI.V.BINOY RAM SRI.P.T.GIRIJAN SRI.M.S.NARAYANAN SRI.N.SUBRAMANIAM SMT.USHA NARAYANAN C.MURALIKRISHNAN (PAYYANUR) ABRAHAM GEORGE JACOB P.I.RAHEENA SRI.R.SURENDRAN THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 198 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.185 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.157 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: KOROTHMKANDY KHALID AGED 62 YEARS S/O.MOOSA,BUSINESS,RESIDING AT THANEEM,

PANNIYANNOOR, THALASSERY, KANNUR DISTRICT BY ADV
SRI.G.SREEKUMAR (CHELUR)
RESPONDENT/RESPONDENT/RESPONDENT: DILEESH A.P. AGED
43 YEARS, S/O VASU, JAYASREE COMPLEX, NARAYANAPURAM,
THALASSERY - 670 101 BY ADVS.SRI.V.BINOY RAM
SRI.P.T.GIRIJAN SRI.M.S.NARAYANAN SRI.N.SUBRAMANIAM
SMT.USHA NARAYANAN C.MURALIKRISHNAN (PAYYANUR)
ABRAHAM GEORGE JACOB P.I.RAHEENA THIS RENT CONTROL
REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022,
ALONG WITH CONNECTED CASES, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR &
THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE
19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO.
199 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.180 OF 2010
DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL
APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.147 OF 2006 ON THE
FILE OF THE RENT CONTROL COURT, THALASSERY DATED
27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.
KHALID AGED 62 YEARS S/O.MOOSA, BUSINESS, RESIDING AT
THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY
ADV SRI.G.SREEKUMAR (CHELUR)
RESPONDENT/RESPONDENT/RESPONDENT: MAIMOONATH E.K.
D/O.MOOSA, JAYASREE COMPLEX, NARANGAPURAM,
THALASSERY-670101. BY ADV SRI.R.SURENDRAN THIS RENT
CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON
19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 200 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.179 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.146 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID. AGED 62 YEARS, S/O.MOOSA, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/RESPONDENT: DILEESH A.P. S/O.VASU, AGED 47 YEARS, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670101. BY ADVS.SRI.V.BINOY RAM SRI.P.T.GIRIJAN SRI.M.S.NARAYANAN SRI.N.SUBRAMANIAM SMT.USHA NARAYANAN C.MURALIKRISHNAN (PAYYANUR) ABRAHAM GEORGE JACOB P.I.RAHEENA THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 201 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.173 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.166 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID AGED 62 YEARS, S/O MOOSA, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/RESPONDENT: ABDUL NAZAR P. AGED 54 YEARS, S/O ASSU, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY 670101 BY ADV SRI.R.SURENDRAN THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 202 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.175 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.164 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID. AGED 62 YEARS, S/O.MOOSA, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/RESPONDENT: K.B.FAREEDA AGED 47 YEARS D/O.ALI, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670101. BY ADVS.SMT.K.S.HASEENA SRI.N.A.JOSEPH SRI.C.KHALID SRI.K.P.MOHAMED SHAFI SMT.K.K.NESNA SRI.PHIJO PRADEESH PHILIP SRI.K.REEHA

KHADER SRI.T.P.SAJID THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 210 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.170 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.133 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: KOROTHUMKANDY KHALID AGED 62 YEARS S/O. MOOSA, BUSINESS, RESIDING AT THANEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADVS.SRI.G.SREEKUMAR (CHELUR) SRI.ARUN KRISHNA K.R. SRI.NANDAGOPAL S.KURUP SMT.PREETHY KARUNAKARAN SRI.K.RAJESH SUKUMARAN SRI.SAYED MURTHALA THANGAL RESPONDENTS/RESPONDENTS/RESPONDENTS: 1 MUSTHAF.A.K AGED 56 YEARS S/O. ASSAU HAJI, BUSINESS, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY - 670 101. 2 HARIS K. S/O. ASSAU HAJI, BUSINESS, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY - 670 101. BY ADV SRI.SUNIL V.MOHAMMED THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 211 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.161 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.132 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: KORATHUMKANDY KHALID AGED 62 YEARS S/O. MOOSA, BUSINESS, RESIDING AT THANEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADVS.SRI.G.SREEKUMAR (CHELUR) SRI.ARUN KRISHNA K.R SRI.NANDAGOPAL S.KURUP SMT.PREETHY KARUNAKARAN SRI.K.RAJESH SUKUMARAN SRI.SAYED MURTHALA THANGAL RESPONDENT/RESPONDENT/RESPONDENT: ABDUL LATHEEF, AGED 65 YEARS S/O. ABDUL HAMEED, JAYASREE COMPLEX, NARANAGAPURAM, THALASSERY - 670 101. BY ADVS.SRI.N.A.JOSEPH SMT.K.S.HASEENA SRI.C.KHALID SRI.K.P.MOHAMED SHAFI SMT.K.K.NESNA SRI.PHIJO PRADEESH PHILIP SRI.K.REEHA KHADER SRI.T.P.SAJID THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 216 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.171 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.151 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID AGED 62 YEARS S/O.MOOSA, KORATHUMKANDY HOUSE, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/RESPONDENT: FAREEDA K.B. AGED 47 YEARS D/O.ALI, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670 101. BY ADVS.SMT.K.S.HASEENA SRI.N.A.JOSEPH SRI.C.KHALID SRI.K.P.MOHAMED SHAFI SMT.K.K.NESNA SRI.PHIJO PRADEESH PHILIP SRI.K.REEHA KHADER SRI.T.P.SAJID THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 224 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.167 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.124 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: KORATHUMKANDY KHALID AGED 62 YEARS S/O.MOOSA, KORATHUMKANDY HOUSE, BUSINESS, RESIDING AT THANEEM,PANNIYANNOOR, THALASSERY, KANNUR DISTRICT BY ADVS.SRI.G.SREEKUMAR (CHELUR) SRI.K.RAJESH SUKUMARAN RESPONDENT/2ND RESPONDENT/2ND RESPONDENT: PRASLI AGED 39 YEARS S/O.LATE KUNHIMOOSA,CHOKLI AMSOM,

MENAPRAM DESOM, KANNUR DISTRICT 670 101 THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 225 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.189 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.161 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID AGED 62 YEARS S/O.MOOSA, KORATHUMKANDY HOUSE, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/ RESPONDENT: E.K.MAIMOONATHU AGED 68 YEARS, D/O.MOOSA, JAYASREE COMPLEX, NARANGAPURAM THALASSERRY - 670 101. BY ADV SRI.R.SURENDRAN THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 226 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.165 OF 2010

DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)

(AGAINST THE ORDER PASSED IN RCP NO.123 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: KORATHUMKANDY KHALID AGED 62 YEARS S/O.MOOSA, KORATHUMKANDY HOUSE, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/2ND RESPONDENT: PRASIL AGED 39 YEARS, S/O.LATE KUNHIMOOSA, CHOKI AMSOM, MENAPRAM DESOM, KANNUR DISTRICT-670 101. THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 230 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.191 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.128 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010)

REVISION PETITIONER/APPELLANT/PETITIONER:
KORATHUMKANDY KHALID AGED 62 YEARS
S/O.KORATHUMKANDY MOOSA, BUSINESS, RESIDING AT
THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY
ADV SRI.G.SREEKUMAR (CHELUR)
RESPONDENT/RESPONDENT/RESPONDENT: PRAMEELA P.P AGED

40 YEARS D/O.NARAYANAN NAIR, NO OCCUPATION, ROOM NO 12/1888, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670101 BY ADVS.SRI.V.BINOY RAM SRI.P.T.GIRIJAN SRI.M.S.NARAYANAN SRI.N.SUBRAMANIAM SMT.USHA NARAYANAN C.MURALIKRISHNAN (PAYYANUR) ABRAHAM GEORGE JACOB P.I.RAHEENA THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 231 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.172 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.149 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K K KHALID AGED 62 YEARS S/O.KORATHUMKANDY MOOSA, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENT/RESPONDENT: DILEESH A P, AGED 47 YEARS, S/O VASU, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670101 BY ADVS.SRI.V.BINOY RAM SRI.P.T.GIRIJAN SRI.M.S.NARAYANAN SRI.N.SUBRAMANIAM SMT.USHA NARAYANAN C.MURALIKRISHNAN (PAYYANUR) ABRAHAM GEORGE JACOB P.I.RAHEENA THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 232 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.193 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY) (AGAINST THE ORDER PASSED IN RCP NO.127 OF 2006 ON THE FILE OF THE RENT CONTROL COURT, THALASSERY DATED 27.02.2010) REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID AGED 62 YEARS S/O.MOOSA, KORATHUMKANDY HOUSE, BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR, THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR (CHELUR) RESPONDENT/RESPONDENTS/RESPONDENTS: 1 N.P.ISMAIL AGED 58 YEARS S/O.MAMMU HAJI, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670101. 2 THUNDIYIL MAJEED S/O.ABOOBACKER, JAYASREE COMPLEX, NARANGAPURAM, THALASSERY-670101. BY ADVS.SRI.N.A.JOSEPH SMT.K.S.HASEENA SRI.JOSEPH BERNARD MATHEW SRI.C.KHALID FOR R1 SRI.K.P.MOHAMED SHAFI SMT.K.K.NESNA SRI.PHIJO PRADEESH PHILIP SRI.K.REEHA KHADER SRI.T.P.SAJID THIS RENT CONTROL REVISION HAVING COME UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR & THE HONOURABLE MRS. JUSTICE C.S. SUDHA WEDNESDAY, THE 19TH DAY OF OCTOBER 2022 / 27TH ASWINA, 1944 RCREV. NO. 233 OF 2014 (AGAINST THE JUDGMENT IN RCA NO.174 OF 2010 DATED 31.03.2014 ON THE FILE OF THE RENT CONTROL

APPELLATE AUTHORITY, ADDL.DISTRICT JUDGE-I, THALASSERY)
(AGAINST THE ORDER PASSED IN RCP NO.129 OF 2006 ON THE
FILE OF THE RENT CONTROL COURT, THALASSERY DATED
27.02.2010)

REVISION PETITIONER/APPELLANT/PETITIONER: K.K.KHALID
AGED 62 YEARS S/O.MOOSA, KORATHUMKANDY HOUSE,
BUSINESS, RESIDING AT THANEEM, PANNIYANNOOR,
THALASSERY, KANNUR DISTRICT. BY ADV SRI.G.SREEKUMAR
(CHELUR) RESPONDENT/RESPONDENT/RESPONDENT:
P.SHABEER AGED 41 YEARS S/O.BASHEER, JAYASREE COMPLEX,
NARANGAPURAM, THALASSERY-670101. BY ADV
SRI.E.S.M.KABEER THIS RENT CONTROL REVISION HAVING COME
UP FOR FINAL HEARING ON 19.10.2022, ALONG WITH CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: C.R.

P.B.SURESH KUMAR & C.S.SUDHA, JJ.

RCRev.No.185/2014, 186/2014, 190/2014, 191/2014, 198/2014,

----- Dated

this the 19th day of October, 2022

ORDER

C.S.Sudha, J.

These Rent Control Revision petitions (R.C.Rs.) under Section 20 of the Kerala Building (Lease and Rent Control) Act, 1965 (the Act) are filed by the petitioner-landlord against the common judgment dated Thalassery, in R.C.A.No.159, 160, 161, 162, 165, 166, 167, 168, 170, 171, 172, 173, 174, 175, 176, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 189, 190, 191, 192 and 193/2010. Thirty five Rent Control Petitions (R.C.Ps.), namely, R.C.P.No.112, 122, 123, 124, 125, 127, 128, 129, 131, 132, 133, 134, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 160, 161, 163, 164, 165, 166, 167 and 168/2006, were

filed before the Rent Control Court (RCC), Thalassery, seeking eviction, mainly under Sections 11(3) and 11(4)(iv) of the Act. In R.C.P.No.123, 124, 127, 132, 133, 161 and 166 of 2006, the ground under Section 11(4)

(iv) of the Act was also taken up. In R.C.P.No.123, 127, 132, 133, 161 and

166 of 2006, the ground under Section 11(4)(v) of the Act was also taken up. By a common order dated 27/02/2010, all the R.C.Ps. were dismissed. The petitioner-landlord filed the aforesaid appeals against the order of dismissal. The RCAA by a common judgment dated 31/03/2014 confirmed the order of dismissal by the RCC. It is against the concurrent findings of the courts below resulting in rejection of the claim for eviction on all grounds sought, the present R.C.Rs. have been filed by the petitioner- landlord/appellant. The respondents-tenants in the R.C.Ps., who are the respondents before the RCAA are the respondents herein. 1.1. When the matter was taken up for hearing, it was submitted that R.C.R.No.184, 187, 192, 193, 197, 213, 218, 223 and 234 of 2014 which arose from R.C.A.No.182, 181, 186, 187, 166, 168, 162, 190 and 192 of 2010, have been settled between the parties. The respondents in R.C.R.No.206 and 217 of 2014 have died and steps have been initiated to implead their legal representatives. Apart from these cases, we propose to dispose of the remaining R.C.Rs. by this common order. The parties in these revision petitions will be referred to as described in the R.C.Ps.

2. The tenanted premises in the R.C.Ps. are rooms in a single

building by name, Jayasree complex. In the R.C.Ps. it is alleged that the petitioner, the owner of the building, bona fide requires the schedule rooms for his own occupation for running a modern restaurant cum supermarket. According to the petitioner, the entire building is an old and dilapidated one. Hence the entire complex needs to be reconstructed into a modern multi-storied building with necessary facilities so as to start his proposed business. He is presently conducting a business in Muscat, which he intends to wind-up, return and settle down in his native place. Therefore, after reconstruction he requires the building for his own need. Though the respondents have been requested to vacate the premises, they have refused to do so and hence the R.C.Ps.

3. The respondents-tenants denied the bona fide need as well as

the need for reconstruction alleged in the petitions. According to them, the petitioner is in possession of several other buildings and vacant plots in the same city, which are quite suitable for the need alleged. The claim has been made with a mala fide intention to evict the respondents. The respondents- tenants also claim the benefit of the second proviso to Section 11(3).

4. In the revision petition filed it is alleged that the findings of the courts below are illegal, irregular and improper and therefore an interference is called for.

5. Heard both sides.

6. As stated earlier, it is the concurrent findings of the courts

below that have been challenged in these proceedings by the petitioner- landlord. Therefore, we deem it appropriate to briefly refer to the scope of revision contemplated under Section 20 of the Act. As per the Section, the High Court may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under the Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and it may pass such order in reference thereto as it thinks fit. It is true that this Court under Section 20 is not expected to reappraise the evidence produced by the parties in exercise of its revisional jurisdiction and the limited question that falls for its consideration is whether the procedure followed by the RCC and the Appellate Authority is illegal, irregular or improper. However, it is well settled that the powers of S.20 are wider than that is conferred under S.115 CPC. The nature and scope of the powers of revision under S.20 has been considered by the Apex Court in the decision in *Nalakath Sainuddin v. Koorikadan Sulaiman*, 2002 KHC 762: 2002 (6) SCC 1. It has been held that when the aid of the High Court is invoked on the revisional side, it is done because it is a superior Court and it can interfere for the purpose of rectifying the error of the Court below. Subject to limitations placed on the exercise of revisional jurisdiction, it remains a part of the general appellate jurisdiction of a superior Court in a wider and larger sense. It has been further held that, a jurisdiction to examine the

propriety of the order or decision carries with it the same jurisdiction as the original authority to come to a different conclusion on the said set of facts. If any other view is taken, the expression "propriety" would lose its significance. It was further held in that- (i) There is no reason to read and interpret S.20 of the Act narrowly and limit the scope of revisional jurisdiction conferred on the High Court thereby. (ii) Once a revision petition is entertained by the High Court, whichever be the party invoking the revisional jurisdiction, the High Court acquires jurisdiction to call for and examine the records of the authority subordinate to it. The records relating to "any order" and/or any proceedings, are available to be examined by the High Court for the purpose of satisfying itself as to the (a) legality, (b) regularity, or (c) propriety of the impugned order, including any part of the order, or proceedings. The only limitation on the scope of the High Court's jurisdiction is that the order or proceedings sought to be scrutinized must be of the subordinate authority. Any illegality, irregularity or impropriety coming to its notice is capable of being corrected by the High Court by passing such appropriate order or direction as the law requires and justice demands. The Court can examine whether the findings rendered by the appellate authority are plausible and to consider that aspect, the Court can refer to the pleadings and evidence adduced by the parties. 6.2. While exercising revisional jurisdiction, a reappraisal of evidence can be made, but that should be for the limited purpose to ascertain whether the conclusions arrived at by the fact-finding Court is wholly unreasonable (*Rafatali v. Sugnibal*, AIR 1999 SC 283). For the investigation as to the correctness of the legality, regularity or propriety of the order or the proceedings, the revisional court can go through the evidence, if necessary.

7. Having thus reminded ourselves of the scope of our

jurisdiction under Section 20, let us examine the reasonings given by the courts below, to which our attention has been drawn to see whether there is any illegality or impropriety in the same as canvassed on behalf of the petitioner. As far as the grounds for eviction under Sections 11(4)(i) and 11(4)(v) are concerned, the petitioner has not been able to show any irregularity, impropriety or illegality in the findings of the courts below warranting an interference. Hence the said findings are confirmed.

8. The main challenge raised by the petitioner is regarding the

findings rendered under Sections 11(3) and 11(4)(iv). The grounds of eviction under the aforesaid Sections have been jointly considered and conclusions arrived at by the RCC, which findings have been accepted in toto by the RCAA. The grounds under which the need alleged to have been found to be not bona fide mainly are - (i) the inability or failure of the petitioner to specify a date as to when he would wind up his business in Muscat and return for good to Kerala; (ii) the failure to explain the reason why the petitioner all on a sudden decided to wind up his business in Muscat and return home; (iii) the improbability of the need alleged as the petitioner has several other successful ongoing businesses; (iv) the failure to reveal in the R.C.Ps. the fact that he is in possession of other rooms/buildings and vacant plots in his possession; (v) failure to prepare the estimate of cost of construction; (vi) no provision of kitchen or provision for escape of heat and smoke seen in the plan for the proposed construction; (vii) the petitioner admits that he maintains good relations with the officials of the Building and Health Section of the Municipality concerned and therefore the likelihood of obtaining Ext. A80 plan wielding his influence in the Department concerned, and (viii) the reluctance or refusal of the petitioner to file an affidavit to the effect that he would construct the building within the period fixed by the court, in which building, he would provide rooms to all the tenants in the reconstructed building.

9. It is true that both the courts below have conducted a detailed

analysis or examination of the pleadings and evidence let in. However, the reasonings given for rejecting the claim finding that the need is not bona fide leaves much to be desired. For the petitioner to succeed under Section 11(4)(iv), he must show - (i) that the building is in such a condition that it needs reconstruction; (ii) that he requires bona fide to reconstruct the same;

(iii) he must satisfy the court that he has the plan and license, if any

required; (iv) that he has the ability to rebuild; and (v) the last but not the least, the proposal must not have been made as a pretext for eviction. The fact that the building complex housing the petition schedule rooms is in a dilapidated condition

is borne out from the commission report, against which there is not much serious objection seen raised by the respondents. The financial capacity of the petitioner is also not in dispute. On the other hand, the definite case of the respondents is that the petitioner is quite a rich businessman. Therefore, it is immaterial or of no significance that the petitioner had not prepared in advance an estimate relating to the cost of construction. The petitioner while examined as PW1 deposed that the estimate would come to 1 crore. The respondents have no case that the petitioner does not have the means or capacity or ability to raise the said amount. The plan and license have also been produced in this case. The challenge to Ext.A80 plan raised by the respondents and accepted by the courts below is that though the petitioner alleges that he wants to start a modern restaurant cum supermarket, the plan produced for the proposed building does not show any provision for a kitchen or outlet for smoke and fumes. This is also of not much relevance, because in this modern age where the concept of open-kitchen is quite in vogue, this cannot be made a ground to reject the case put forward by the petitioner merely on the ground that provision has not been made in the plan for a conventional kitchen with hearth, chimney etc. The fact that the petitioner maintains good relations with the officials of the departments concerned in the Municipality also cannot, in the facts and circumstances of this case be found against the petitioner.

10. Now coming to the question whether the need alleged is bona

fide and not merely a pretext for eviction. One of the reasons which prompted the courts below to hold that the need to be not bona fide is the undisputed fact that the petitioner is an extremely well-off person, having businesses, buildings and properties in and around Thalassery as well as in other districts of Kerala and in Muscat. Law does not prevent a person from having more than one business at a time. It is not a sin or a crime for a person to augment his income and earnings by starting or running several businesses simultaneously so long as the businesses are legal and legitimate. As long as law does not lay down a limit regarding the number of businesses a person can run at a time, the petitioner need not specify any reason for starting a new one. Here the petitioner may be having several businesses in and around Kerala and also abroad. However, that is no ground for disbelieving his case or to hold that the need is not bona fide.

11. One another aspect which seemed to have weighed heavily in

the mind of the courts below while holding the claim to be not bona fide, is the failure of the petitioner to give a specific date by which he intends to windup his businesses in Muscat and return for good to Kerala to start the proposed business. In the R.C.Ps. the allegation is that he intends to windup his business in Muscat and return for good to Kerala. It is true that the petitioner when examined as PW1 did not give a specific date or day on which he intends to return home. It has also come out in evidence that no steps have been so far taken by the petitioner to windup his business in Muscat. The R.C.Ps. have been filed in the year 2006. 16 years have elapsed. Till date, the petitioner has not obtained vacant possession of the tenanted premises. Therefore, to say that the petitioner should have or ought to have wound-up his business in Muscat in the year 2006 itself, or should have initiated steps for closure of his business, returned to Kerala and should have waited in anticipation of getting vacant possession of the tenanted premises so as to show or prove his bona fides, is certainly flawed thinking or not the right approach.

12. Further, the respondents also refer to the first proviso to

Section 11(3) of the Act. According to them, the petitioner has several other buildings and vacant plots in his possession which can be put to use for the proposed need. As per the first proviso to Section 11(3), the RCC shall not order eviction under the said sub-section if the landlord has another building of his own in the same city, town or village except where the RCC is satisfied that for special reasons, in any particular case it will be just and proper to do so. It is true that the petitioner has not referred to the possession of any buildings or plots in his possession. On the other hand, his specific case is that he is not in possession of any building suitable or convenient for his need. According to the RCC as well as the RCAA, the non-disclosure of the availability of alternate accommodation in the R.C.Ps. by the petitioner is fatal and that fact goes against the bona fides of the claim for eviction. It is now settled that even if the landlord failed to mention in the petition for eviction about the other premises belonging to him, if materials about those alternate accommodation have been placed before the court and the matter

has been adequately considered by the court without causing any prejudice to the tenant, the non-disclosure of the availability of buildings in the petition is immaterial (Jerry Joseph v. Selvaraj, 2002 KHC 398). Here the fact that the petitioner has other buildings has been brought out in evidence and all the respondents did get an opportunity to thoroughly cross examine the petitioner on the said aspect. Therefore, the non-disclosure of the details of the same in the R.C.Ps. has in no way caused any prejudice to the respondents.

13. It is true that it has come out in evidence that the petitioner has

other buildings and vacant plots at different places. The specific case of the petitioner is that he is not in possession of buildings or vacant plots suitable to his need. Therefore, the question to be decided is not merely whether the petitioner is in possession of other buildings or plots as has been done by the courts below, but to see whether they are suitable for the need alleged. The courts below refer to the following buildings admittedly owned by the petitioner - a building named Hyper Centre situated near the flyover Thalassery, the 24 rooms of which according to the petitioner, are in the possession of tenants including the floor owned by his son; a hotel at Mananthavady housed in a five storeyed building; a seven storeyed building in 35 cents at Saidarpally; quarter no. 145 to 150; a building at Waynad having 15 shop rooms in the ground floor and a restaurant and lodge on the first floor; four shop rooms in the very same complex, that is, Jayasree complex and also a vacant plot nearby. It is true that the petitioner has not produced the rent deeds to show that the above are in the possession of tenants. His case is that they are not suitable for his proposed need. As noticed earlier the need alleged is that the tenanted premises is required for starting a modern restaurant cum super market. The courts below after noticing the fact that the petitioner is in possession of the aforesaid buildings, referred to Ext.A80 plan which shows that the petitioner intends to construct a building consisting of only two shop rooms in the 3 floors and the remaining space to be allotted for passage, staircase, lift, toilets etc. Added to this the courts also took note of the fact that no provision for kitchen has been made in the plan. These facts according to the courts below are ample proof to show that the need alleged is not bona fide.

14. We are afraid we cannot agree to this conclusion arrived at by

the courts below. The proposed construction is for a supermarket and restaurant. Therefore, the building obviously cannot be divided into several rooms. On the other hand, rooms spacious enough to accommodate the restaurant and supermarket would be required. Sufficient space will also have to be allotted for passage, staircase, lift, toilets etc. as several customers are likely to visit the place. No evidence has come on record to show that such a building is in the possession of the petitioner. There even seems to be a suggestion put to the petitioner on behalf of one of the tenants as to why he had not contemplated constructing a building like the one he owns at Waynad where the first floor is used as a restaurant and lodge and the ground floor consisting of 15 rooms leased out to tenants. It is well settled that the tenant cannot dictate to the landlord regarding his need or choice of the building. In the decision in *Sarla Ahuja v. United India Insurance Company Ltd.*, 1998 (8) SCC 119, the Apex Court has

held that when the landlord asserts that he requires his building for his own

occupation, the RCC shall not proceed on the presumption that the requirement is not bona fide. When other conditions required are satisfied and when the landlord shows a prima facie case, it is open to the RCC to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself. It is a settled position of law that the landlord is the best judge of his requirement for residential or business purpose and he has got complete freedom in the matter (*Prativa Devi v. T.V. Krishnan*, 1996 (5) SCC 353). In the case on hand the petitioner wanted eviction of the tenants from the premises for starting his business as it was suitable and it cannot be faulted. In deciding the question of the bona fide requirement, it is unnecessary to make an endeavour as to how else the landlord could have adjusted himself (*R.C.Thamrakar v. Nidi Lekha*, 2001 (8) SCC 431).

15. It is well settled that the bona fide requirement of the landlord

should be objectively tested and the landlord need not establish that it is a dire need. In the decision in *Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta*, 1999(6) SCC 222, the Apex Court has observed that the judge of

facts should place himself in the armchair of the landlord and then ask the

question to himself-whether in the given facts substantiated by the landlord the need to occupy the premises can be said to be natural, real, sincere and honest. If the answer be in the positive, the need is bona fide. The failure on the part of the landlord to substantiate the pleaded need, or in a given case, positive material brought on record by the tenant enabling the court drawing an inference that the reality was to the contrary and the landlord was merely attempting at finding out a pretence or pretext for getting rid of the tenant, would be enough to persuade the court certainly to deny its judicial assistance to the landlord.

16. Further, according to the respondents if reconstruction of the

building complex is permitted, the tenants have a right of re-entry which is a statutory right, which the landlord cannot be permitted to defeat. According to the respondents, it is to defeat this right of the tenants, the ground under Section 11(3) has been raised by the petitioner. This ground, according to the respondents, is not attracted in the case on hand. The same cannot be entertained in the light of the statutory right of re-entry given to the tenants as contemplated under the third proviso to Section 11(4)(iv) of the Act, contends the respondents.

17. It is true that the tenants as per the said proviso, has the first

option to have the reconstructed building allotted to them with liability to pay its fair rent. We will shortly consider whether this right is an absolute right as contended by the respondents after considering the arguments advanced by them against the need alleged under Section 11(3). It was canvassed on behalf of the respondents that the ground under Section 11(3) of the Act is not attracted here because as per the Section, need is for occupation of the building. When the building itself is

demolished and is to be reconstructed in future, the need cannot be for occupation of a building as there would be no building once it is demolished and then what remains would only be vacant land. It was pointed out that the definition of building as contemplated under Section 2(1) of the Act, does not take in vacant land. It was also submitted that this Court in the decisions reported in *Sarada v. M.K.Kumaran*, 1969 KLT 133 ; *Daniel v. M.G.George*, 1993 KHC 248 and *Narayanankutty v. Abiida Abdul Kareem*, 2002 KHC 468, has gone wrong in relying on the dictum in *Ramniklal Pitambardas Mehta v. Indradaman Amratlal Sheth*, AIR 1964 SC 1676 : 1964 KHC 613. The Apex Court had decided the case on the basis of the provisions contained under the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (the Bombay Rents Act), as per which Act, the definition of tenanted premises include vacant land also. This aspect according to the respondents was lost sight of by this Court in the aforesaid decisions and hence the same requires reconsideration. It was also pointed that the ground for eviction under Section 11(3) cannot be invoked for all the needs of the landlord, though they may be legitimate. The legislature never contemplated eviction under Section 11(3) when the need alleged is to demolish the existing building and to reconstruct the same. It was also pointed out that the interpretation given by this Court in *Narayanankutty* (Supra) to the words 'means' and 'includes' in the definition clause of the Act is wrong in the light of the dictum in *D.A.V.College Trust and Management Society v. Director of Public Instructions*, AIR 2019 SC 4411 : 2019(4) KHC 840.

18. *Ramniklal Pitambardas Mehta* (Supra) was a case under the

Bombay Rents Act. The landlord therein sought eviction of the tenanted premises on the ground that he required the entire house including the portion occupied by the tenant for his residential purpose. He also contended that the building was a very old one and therefore he wanted to make necessary additions, alterations and changes and thereafter occupy the same. The sole question to be determined in that case was whether the claim put forward came within the provisions of Section 13(1)(g) or Section 13(1) (hh) of the Bombay Rents Act. It has been held that once the landlord establishes that he bona fide requires the premises for his own occupation, he is entitled to recover possession of it from the tenant in view of

the provisions of sub-clause (g) of Section 13(1) irrespective of the fact whether he would occupy the premises without making any alteration to them or after making the necessary alteration. It has been further held that the mere fact that the petitioner intended to make alterations in the house either on account of his sweet will or on account of absolute necessity in view of the condition of the house, does not affect the question of his requiring the house bona fide and reasonably for his occupation, when he has proved his need for occupying the house. There is no such prohibition either in the language of cl. (g) or in any other provision of the Act to the effect that the landlord must occupy the house for residence without making any alterations in it. There could not be any logical reason for such a prohibition. Under ordinary law, the landlord is entitled to eject his tenant whenever he likes, after following certain procedure except in cases where he has contracted not to eject him before the happening of a certain event. The Act restricts that general right of the landlord in the special circumstances prevailing in regard to the availability of accommodation and the incidental abuse of those circumstances by landlords in demanding unjustifiably high rents. The Apex Court in the case has never referred to the definition of 'building' or 'tenanted premises' contained under the Bombay Rents Act nor has it gone into the question whether the term 'building' would include the space or the land on which it stands.

19. The aforesaid decision of the Apex Court has been relied on by

this Court in *Sarada* (Supra), *Daniel* (Supra) and *Narayanankutty* (Supra). In *Sarada's* case (Supra) it has been held that the need of the landlord to provide a passage through the land after demolishing the existing structure would attract Section 11(3) of the Act. In *Daniel* (Supra) eviction was sought for using the building occupied by the tenant after its demolition as a parking space for vehicles for a multi-storied building constructed by the landlord. The tenants contended that the bona fide need for own occupation of a building has to be confined to the need of the building itself, in other words, if an eviction is sought for demolition of the building and to occupy the same, it would not come within the provisions of Section 11(3) of the Act. The Division Bench noticed that this question had been considered in *P.A.Mohammed Kannu v. H.A.Asanar Kunju*, 1965(1) KLR 323; *Sarada* (Supra) and in *Krishna Menon v. District Judge*, 1988 (1) KLT 131. After

referring to the definition clause in the Act as well as the word 'occupation' occurring in sub-sections (3) and (12) of Section 11, it has been held that occupation by the landlord can also be the space occupied by the building in dispute for the bona fide purpose of the landlord. The Bench took note of the fact that the definition of 'building' takes in part of a building also. The definition begins with 'unless the context otherwise requires thereby indicating that the definition is not exhaustive. If part of a building is a building, then it is possible to say that space occupied by the building is also part of the building. Therefore, occupation of the building contemplated under Section 11(3) as well as under Section 11(12) would take in occupation of the space occupied by the building. It has been further held that a narrow interpretation of Section 11(3) of the Act with respect to the building would work injustice when wider interpretation is not barred by the language of the Section and if two constructions are possible upon the language of the statute, the court must choose the one which is consistent with good sense and fairness and eschew the other which makes its operation unduly oppressive, unjust or unreasonable or which would lead to strange, inconsistent results or otherwise introduce an element of bewildering uncertainty and practical inconvenience in the working of the statute. It was further held that a case of demolition of the tenanted building and putting up a new building by the landlord is not outside the ground for bona fide need for own occupation relying on the decision of the Apex Court in *Ramniklal Pitambardas Mehta* (Supra).

20. As noticed earlier, the Apex Court in *Ramniklal Pitambardas*

Mehta (Supra) never considered the question whether a 'building' takes in the space occupied by it either under the Bombay Rents Act or in its general sense. Therefore, the argument that the interpretation of 'building' given by the Apex Court was based on the Bombay Rents Act, which is different from our Act and so this Court has gone wrong in arriving at the findings in the aforesaid decisions, is apparently wrong. We do not find any reason(s) to doubt the correctness of the decision of this Court in the aforesaid cases. If the interpretation given by the respondents is given effect to, it would lead to a situation which would never have been in the contemplation of the Legislature. Sections 11(3) and 11(4)(iv) of the Act are independent grounds of eviction. The statute does not prevent the landlord

from seeking eviction under both heads provided, he is able to prove the ingredients of the same. To say that the right of entry provided in Section 11(4)(iv) is an absolute right which can in no circumstances be taken away, also appears to be incorrect. That would be placing an unreasonable restriction on the right of enjoyment of the building by the owners, which the legislature must have never contemplated. It is well known that rent restriction Acts were passed in view of the shortage of houses and the high rent which were being demanded by the landlords. The Act is a piece of social legislation and is meant mainly to protect the tenants from frivolous evictions. At the same time, in order to do justice to the landlords and to avoid placing such restrictions on their right to evict the tenant as to destroy their legal right to property, certain statutory provisions have been made by the legislature which have given relief to the landlord. In so far as the social legislation, like the Act is concerned, the law must strike a balance between rival interests and it should try to be just to all. The law ought not to be unjust to one and give a disproportionate benefit or protection to another section of the society. Tenants and landlords are to be given equal treatment. The courts have to adopt a reasonable and balanced approach while interpreting rent control legislations and assume that equal treatment has to be meted out to both the tenants and the landlords. Although Rent control statutes lean in favour of tenants, courts must lean in favour of landlords while interpreting those provisions that take care of landlord's interest (*Joginder Pal v. Naval Kishore Behal*, AIR 2002 SC 2256).

21. Rent control legislation is to balance the interests of two

interest groups, i.e., the landlords and the tenants and it shall be interpreted in such a way as to achieve the object of enabling the landlord to evict tenant where the statute so provides (*Bega Begum v. Abdul Ahad Khan*, AIR 1979 SC 272). It is not a sound principle of statutory construction to place more restriction on the rights of the parties than what is provided for, in the statute itself (*Muhammed v. Abdul Rahiman*, 1983 KHC 197). While construing the provision of a social legislation, the law must strike a balance between rival interests and it should try to be just to all (*Francis v. Sreedevi Varassiar*, 2003 KHC 397). It is also pertinent to note that the Act is a welfare legislation and not entirely a beneficial enactment for the tenant but also for the benefit landlord. In that view of the matter, balance has

to be struck while interpreting the provisions of the Act (Nasiruddin v. Sita Ram Agarwal, AIR 2003 SC 1543).

22. Therefore, the provisions of the Act cannot be interpreted in

such a manner as to deprive the landlord the right of evicting his tenant(s) on the grounds referred to in Section 11 of the Act. It is for the landlord of the building to decide whether it needs reconstruction or whether he should have it for his purpose. It is his property; and he is the best judge on that matter. If a claim is made by the landlord for possession of the building on such a ground, the RCC is not entitled to say that the landlord need not have for reasons of its own. All that the RCC is entitled to do is to enquire whether the need is bona fide, or whether it is only a pretext not to lease out the building or to evict a tenant, as the case may be. The right to reconstruct a building or to have it for the landlord's own purposes is a very valid right attached to the property. (Church of South India Trust Association v. State of Kerala, 1972 KHC 76).

23. Right to property, though not a fundamental right is still a

constitutional right. Article 300 A of the Constitution of India proclaims that no person can be deprived of his property save by authority of law, meaning thereby that a person cannot be deprived of his property without any specific legal authority or without the support of law made by a competent legislature. Article 300A enables the State to put restrictions on the right to property by law. That law has to be reasonable. It must comply with the other provisions of the Constitution. The limitation or restriction should not be arbitrary or excessive or what is beyond what is required in public interest. The limitation or restriction must not be disproportionate to the situation or excessive. (K.T.Plantation Pvt. Ltd. v. State of Karnataka, AIR 2011 SC 3430). Therefore, if a person is to be deprived of enjoyment of his property, it should be by lawful means. It was to prevent unreasonable evictions the Act has been brought in. But the provisions cannot and must not be interpreted in such a manner to read into the statute restrictions which were never intended.

24. It is true that the tenants have got a right of re-entry, but that

right is not an absolute one because if the petitioner is able to show and prove the ingredients under Section 11(3), he is certainly entitled to get an eviction on the ground of his bona fide need. The courts below also found fault with the petitioner for his reluctance or refusal to file an affidavit to the effect that he would reconstruct the building within the period fixed by the court, in which building he would provide rooms to all the tenants in the reconstructed building. When he has specifically pleaded that he requires the building for his own occupation after reconstruction, how can the tenants or the court insist that he file an affidavit that he would let it out to the tenants after reconstruction?

25. The benefit of the second proviso to Section 11(3) has already

been found against by the courts below and so we need not go into the same. The facts and circumstances of the case and the evidence on record in this case clearly establish that the entire approach made by the courts below in this case regarding the bona fides of the claim made by the revision petitioner for eviction is contrary to law and perverse without proper appreciation of the evidence on record. Therefore, we find that this is an appropriate case wherein we should exercise our revisional jurisdiction under S.20 of the Act to rectify the illegality, irregularity and impropriety committed by the courts below in this case. Hence the revision petitions are allowed. The impugned order passed by the Rent Control Court and confirmed by the Rent Control Appellate Authority declining eviction under S.11(3) and 11(4)(iv) of the Act is set

aside and eviction under the said grounds allowed. Considering the facts

and circumstances of the case, the respondents are given three months time from this date to surrender vacant possession of the rooms to the revision petitioner on condition that they file an undertaking before the RCC on or before 18/12/2022 to vacate the tenanted premises within a period of three months from today and also on condition that the respondents shall pay the arrears of rent if any, on or before 18/12/2022 and also continue to pay the monthly rent on or before the 10th day of every succeeding month till they vacate the tenanted premises. Interlocutory applications, if any pending, shall stand closed. Sd/- P.B. SURESH KUMAR

JUDGE Sd/- C.S. SUDHA JUDGE ami/jms

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