

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

&

THE HONOURABLE MR. JUSTICE C.K.ABDUL REHIM

MONDAY, THE 31ST MAY 2010 / 10TH JYAISTHA 1932

RCRev..No. 120 of 2010()

RCA.129/2003 of RENT CONTROL APPELLATE AUTHORITY, THALASSERY
RCP.193/2000 of RENT CONTROL COURT, KANNUR
.....

REVISION PETITIONER/APPELLANT/RESPONDENT

THE CANNANORE CO-OPERATIVE MILK SUPPLY
SOCIETY LTD,KANNUR-2, REPRESENTED THROUGH ITS
SECRETARY.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENT(S): RESPONDENT/PETITIONER

UNITY COMPLEX MAINTENANCE COMMITTEE
THROUGH ITS SECRETARY, S.N.PARK ROAD,KANNUR-1.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION
ON 31/05/2010, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

PIUS C.KURIAKOSE & C.K.ABDUL REHIM, JJ.

R.C.R.No. 120 OF 2010

Dated this the 31st day of May, 2010

O R D E R

Abdul Rehim, J.

Tenant in R.C.P.No.193/2000 on the files of the Rent Control Court, Kannur, is in revision under Section 20 of Act 2 of 1965, against concurrent findings of eviction ordered under Section 11(3) of the Act. The landlord, which is a society entrusted with maintenance of common space and common amenities in a multi storied commercial complex viz. Unity Complex, ownership of which lies with different persons, had sought eviction of the revision petitioner as well as another tenant of a room adjoining, which are situated in the ground floor of the complex. The need projected is that the scheduled rooms in this case are required for establishing office of the landlord society and the other room is required for their staff to change their dress and to keep their working materials. According to the landlord, for running common maintenance of

the building in an effective manner an office is highly necessary. It is further stated that need to accommodate the staff for changing their dress and to keep the working materials is also an absolute necessity.

2. The tenant resisted the Rent Control Petition claiming permanent tenancy. According to the tenant, they were in possession of the premises even before construction of the present building complex and that room was vacated on the basis of an understanding that they will be accommodated in the new complex. According to the tenant, the agreement was to allot the room to them on a permanent basis. Another contention regarding maintainability was that the Secretary of the respondent committee is not competent to institute the petition. With respect to the need projected, the tenant contended that other rooms are available to accommodate the requirements and a store room which is already available is sufficiently enough to accomplish the need. It is also contended that the roof top of the building is sufficient to suit the requirements. Yet another contention was that the committee can construct another building on the top of the petition

schedule building to use the stair case portion as their office.

3. Both the Courts below on appreciating entire evidence on record, concurrently found that the need projected by the landlord society is most genuine and bonafide. The claim of permanent tenancy was found against since the tenant was not able to produce any convincing evidence that the premises was let out on a permanent basis. It is also found that by virtue of Ext.A2 minutes of the committee, there is evidence that the Secretary was duly authorised to institute the eviction petition. Contention regarding availability of other premises was also found against on the basis of evidence available.

4. On a scanning of the impugned judgment of the Appellate Authority and order of the Rent Control Court, we are convinced that the findings are based on proper appreciation of evidence on record. The revision petitioner could not point out any specific omission or manifest mis appreciation of the evidence available. The order of eviction is founded on strong legal basis and has support of convincing evidence on record. We do not find any illegality, irregularity or impropriety to interfere with the concurrent findings ordering eviction on the ground of

bonafide requirement under Section 11(3) of the Act, on exercising the attenuated jurisdiction under Section 20 of the Act. We find that the revision petition deserves no merit and the same accordingly dismissed.

PIUS C.KURIAKOSE,JUDGE

C.K.ABDUL REHIM , JUDGE

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