

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

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THE HONOURABLE MR. JUSTICE JOHNSON JOHN

FRIDAY, THE 3<sup>RD</sup> DAY OF NOVEMBER 2023 / 12TH KARTHIKA, 1945

RCREV. NO. 173 OF 2023

ORDER DT. 14.12.2021 IN RCP 131/2019 OF PRINCIPAL MUNSIFF COURT-I,  
KOZHIKODE.

RCA 18/2022 OF ADDITIONAL DISTRICT COURT, KOZHIKODE / I ADDITIONAL  
DISTRICT COURT, KOZHIKODE

REVISION PETITIONER/APPELLANT/RESPONDENT-TENANT:

C.P. HARIDASAN  
AGED 55 YEARS  
S/O. PADMANABHAN NAIR, PUTHALATHHAZHATH, PADINJATTUMMURI,  
AMSOM DESOM, KOZHIKODE, TALUK AND DISTRICT,, PIN - 673 004.  
BY ADVS.  
RAJESH SIVARAMANKUTTY  
MAYA C.P.  
K.V.ANTONY  
VIJINA K.  
ARUL MURALIDHARAN

RESPONDENTS/RESPONDENTS/PETITIONERS-LANDLORDS:

- 1 T.V. MUHAMMED, S/O. ALIKOYA,  
AGED 57 YEARS,  
'JASSENA MAHAL', AMBALATHUKULANGARA, CHELANNUR AMSOM  
DESOM, CHELANNUR P.O., KOZHIKODE TALUK, KOZHIKODE DISTRICT,,  
PIN - 673 616.
- 2 T.V. SULAIKHA  
AGED 49 YEARS  
'JASSENA MAHAL', AMBALATHUKULANGARA, CHELANNUR AMSOM  
DESOM, CHELANNUR P.O., KOZHIKODE TALUK, KOZHIKODE DISTRICT,,  
PIN - 673 616.
- 3 T.V. JASEENA  
AGED 32 YEARS  
D/O MUHAMMED, JASSENA MAHAL ,AMBALATHUKULANGARA,  
CHELANNUR AMSOM DESOM, CHELANNUR P.O., KOZHIKODE TALUK,  
KOZHIKODE DISTRICT, PIN - 673 616.
- 4 T.V. JIYADALI  
AGED 29 YEARS  
'JASSENA MAHAL', AMBALATHUKULANGARA, CHELANNUR AMSOM  
DESOM, CHELANNUR P.O., KOZHIKODE TALUK, KOZHIKODE DISTRICT,,  
PIN - 673 616.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 03.11.2023,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.B. SURESH KUMAR & JOHNSON JOHN, JJ.**

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R.C. Rev. No. 173 of 2023  
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Dated this the 3<sup>rd</sup> day of November, 2023.

**ORDER**

Johnson John, J.

The revision petitioner, the tenant in a proceedings for eviction under Sections 11(2)(b) and 11(3) of the Kerala Buildings (Lease and Rent Control) Act, 1965, has filed this revision challenging the concurrent orders of eviction suffered by him.

2. The learned counsel for the revision petitioner argued that the findings regarding the arrears of rent and the *bona fide* need are not supported by any reliable evidence and therefore, the orders passed by the courts below are liable to be set aside.

3. Heard both sides and perused the records.

4. It is not disputed that the monthly rent of the petition schedule room is Rs.500/-. In the counter statement, the tenant denied that the rent is in arrears from March, 2014 and contended that no rent was in arrears before the eviction notice and after notice, the landlords wilfully refused to receive the rent. The lawyer notice marked as Exhibit A5 is dated 15.06.2019. It is pertinent to note that in Exhibit A6 reply notice, the tenant has no case that he paid the rent after February, 2019 and in the above circumstances, we find no reason to interfere with the finding of the Rent Control Court and the appellate court that rent is in arrears from March, 2019 onwards and

therefore, the contentions raised for and on behalf of the revision petitioner in this regard is not sustainable.

5. The learned counsel for the revision petitioner argued that the need put forward by the respondents/landlords is that the 4<sup>th</sup> respondent, who is examined as PW1, intends to start a jewellery business and that he is a multi millionaire and the need put forward is not *bona fide*. But, we find no reason to interfere with the findings of the courts below that even if PW1 is a partner of Chelleenur Jewellery and that he is financially rich, the same cannot be accepted as a ground to arrive at a conclusion that the need put forward is not *bona fide*.

6. It is also pertinent to note that even though the tenant has raised a contention that the landlords are in ownership and possession of other buildings in the locality, no evidence is adduced to substantiate the said contention. It is well settled that the burden is on the tenant to prove the said fact and therefore, we find no illegality, impropriety or irregularity in the orders of eviction passed by the Rent Control Court and the Rent Control Appellate Authority.

However taking into account the facts and circumstances of the case, the revision petitioner/tenant is granted six months' time from today to vacate the petition schedule room, on condition that he shall file an unconditional undertaking before the Rent Control Court, within two weeks from today, that he shall vacate the petition schedule room within a period of six months and also shall pay the arrears of rent, if any,

within the aforesaid time limit and continue to pay the monthly rent on or before the tenth of every succeeding month, till he vacate the petition schedule room.

This Rent Control Revision is disposed of as above.

sd/-  
**P.B. SURESH KUMAR,**  
**JUDGE.**

sd/-  
**JOHNSON JOHN,**  
**JUDGE.**

Rv