

VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 22ND DAY OF MAY 2023 / 1ST JYAISHTA, 1945

OP (RC) NO. 74 OF 2023

AGAINST THE ORDER/JUDGMENT IN RCP 140/2021 OF III

ADDITIONAL MUNSIFF COURT, EKM (RENT CONTROL)

PETITIONERS:

- 1 PREMA JOY, AGED 72 YEARS
W/O. P.P. JOY, PYNADATH HOUSE, 36/1570,
JUDGES AVENUE, R.B.I. QUARTERS ROAD,
KALOOR, ERNAKULAM DISTRICT, PIN - 682017

- 2 RINKU PAUL JOY, AGED 47 YEARS
S/O. P.P. JOY, PYNADATH HOUSE, 36/1570,
JUDGES AVENUE, R.B.I. QUARTERS ROAD,
KALOOR, ERNAKULAM
REPRESENTED BY HIS AUTHORISED POWER OF ATTORNEY
THE 1ST PETITIONER HEREIN, PIN - 682017

BY ADVS.
SANTHAN V.NAIR
SHRI.R.RANJITH
SAFAL P. SALIM

RESPONDENT:

JOHN BRITTO
MANAGING PARTNER, M/S. GREENE DIESELS AND
ENGINEERS, ROOM NO. 40/9275,
2ND FLOOR, T.K. TOWER, CHITTOOR ROAD,
PULLEPADY, ERNAKULAM, PIN - 682035

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION
ON 22.05.2023, ALONG WITH OP (RC).83/2023, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

VERDICTUM.IN

OP(RC)Nos.74 of 2023 & 83 of 2023

2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 22ND DAY OF MAY 2023 / 1ST JYAISHTA, 1945

OP (RC) NO. 83 OF 2023

AGAINST THE ORDER/JUDGMENT IN RCP 90/2018 OF MUNSIF

COURT, CHAVAKKAD

PETITIONER:

SUKUMARAN,
AGED 68 YEARS
S/O.GOVINDAN, AMBADI DESOM,
PAVARETTY AMSOM, CHAVAKKAD TALUK,
P.O.PAVARETTY, PIN - 680507

BY ADVS.
RENJITH B.MARAR
LAKSHMI.N.KAIMAL
ARUN POOMULLI
PREETHA S CHANDRAN
ABHIJITH SREEKUMAR

RESPONDENT:

JOSHY, AGED 38 YEARS
S/O.PULIKKAN JOHNY,
MANALLUR VILLAGE DESOM,
THRISSUR TALUK, P.O.MANALLUR,
PIN - 680617

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON 22.05.2023, ALONG WITH OP (RC).74/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

“C.R.”

A.K. JAYASANKARAN NAMBIAR & MOHAMMED NIAS C.P., JJ

.....
OP(RC)Nos.74 of 2023 & 83 of 2023

.....
Dated this the 22nd day of May, 2023

ORDER

Mohammed Nias.C.P. J.

OP(RC)No.74 of 2013 is filed by the petitioners in RCP No.140 of 2021, pending before the III Additional Munsiff (Rent Control) Court, Ernakulam. It is stated that the RCP was filed on 22.9.2021 and that the respondent has not so far filed any objection to the above rent control petition. Though the petitioners filed IA No.8 of 2023 on 17.3.2023 to advance the case hearing posted to 31.5.2023, the Rent controller in charge posted the said IA on 25.5.2023. This original petition is filed for a direction to the Rent Controller to pass final orders in the rent control petition within a time limit to be fixed by this Court.

2. OP (RC) 83 of 2023 is also an original petition filed seeking a direction to finally dispose of RCP No.90 of 2018 pending before the Rent Control Court, Chavakkad, within a time period of six months.

3. It is seen that a number of similar petitions are filed before this Court seeking expeditious disposal of the cases filed before the Rent

Control Court and the appeals filed before the Rent Control appellate authority.

4. In OP(RC)No. 83 of 2023, pursuant to the order dated 5.4.2023 passed by this Court directing the registry to ascertain from the Presiding Officer of the Rent Control Court, Chavakkad, as to the time limit within which RCP No.90 of 2018 could be finally disposed, a report has been filed by the presiding officer pointing out that as on 31.3.2023 there are 5057 original suits, 267 RCPs, 124 final decree applications, 2286 Execution Petitions, 53 original petitions, 250 miscellaneous petitions pending, out of which 1821 are more than five years old and the total pendency is 8037. Accordingly, the Presiding Officer sought five months' time to dispose of the cases from 20.05.2023. We take judicial notice of the pendency and assume a similar workload pattern in almost all the Courts in the State, barring a few exceptions.

5. Ordinarily, the disposal of a case in Courts must be as per the seniority, namely chronological basis, and deviation from that must be an exception on valid and genuine grounds. No litigant should normally be allowed to jump the queue or steal a march over the other litigants who filed cases earlier. Only if a litigant files an application stating the reason for an early hearing of the case and only if the court is satisfied with the reasons furnished can a case be posted out of turn. This Court had considered a similar issue with respect to the cases pending before the family courts in the State in the judgment in **Shiju Joy.A. and others v.**

Nisha [2023 (2) KLT 193] and also in OP(FC)No.148 of 2023. In most cases filed before this Court with prayers for expeditious disposal, it has become a routine practice of this Court to call for reports from the lower courts and issue directions to dispose of the proceedings in a time-bound manner. The Presiding officers are compelled to give a time frame for disposal, disregarding the pendency of much older cases. This works out injustice to those who cannot approach this Court for such reliefs and to all litigants waiting in the queue.

6. As rightly noted by the Division Bench in **Shiju Joy.A. and others** (supra), such directions for out-of-turn disposals can cause injustice to many who had approached the lower courts earlier, and the persons getting directions from this Court gain undue advantage in getting those cases to be disposed of on priority basis. The report in the instant case noticed above shows the volume of work and, resultantly, the stress and pressure on the Presiding Officers burdened with a huge backlog. Because a litigant has the resource to approach this Court with a prayer to expedite his case, he should not be allowed to break the queue and get an undue advantage unless the situation warrants. We are also mindful of Section 24 of the Act, which directs the Rent Control Court, as far as it may be practicable, to pass final orders in proceedings before it within four months from the date of appearance of the parties thereto. On account of this statutory prescription/legislative hope as well, a direction by this Court to give an out-of-turn hearing should not normally be done unless the situation

warrants. To remedy the above situation, which results in gross injustice, besides unfair treatment to litigants, the following directions are issued for strict compliance by the Rent Control Courts and the Rent Control Appellate Authorities in the State.

7. If any party desires to have its heard out of turn, it shall move an application for an early or out-of-turn hearing based on any justifiable or valid reasons before the court concerned and, the Rent Control Court/Appellate authority as the case may be shall dispose of such an application as expeditiously as possible, at any rate, within two weeks from the date of moving such application. Brief speaking orders will have to be passed by the said courts, either allowing or rejecting the prayer for an early hearing. The courts will bear in mind that the normal rule is to go by the queue, and only in exceptional cases where justifiable and genuine reasons are made out requests for taking up cases on a priority basis should be entertained. Only after the above exercise is done can a litigant approach this Court with a prayer seeking expeditious disposal of the case. This, we feel, will ensure avoidance of any kind of judicial injustice by the Court contributing its part to the delay in the dispensation of justice by indiscriminate entertainment of the types of petitions noticed above. Equality before law implies an absence of any special privilege. So does equal protection of laws by ensuring equality of treatment among people in similar circumstances. All litigants are to be accorded the same treatment by administering law in an even-handed manner.

Accordingly, these original petitions are closed without prejudice to the petitioners' right to move the court concerned with an application as stated above. The Courts concerned will deal with the applications as directed in this judgment. The Registrar (District Judiciary) is directed to communicate this order to all Rent Control Appellate Authorities and to Rent Control Courts, forthwith for compliance.

**A.K. JAYASANKARAN NAMBIAR,
JUDGE**

**MOHAMMED NIAS C.P.,
JUDGE**

APPENDIX OF OP (RC) 83/2023

PETITIONER'S EXHIBITS

- Exhibit P1 A TRUE COPY OF THE RENT AGREEMENT DATED
1.8.2016 BETWEEN THE PETITIONER AND
RESPONDENT FOR THE SHOP ROOMNO.255/A-
11 (II/25)
- Exhibit P2 TRUE COPY OF THE RENT AGREEMENT DATED
1.8.2016 BETWEEN THE PETITIONER AND
RESPONDENT FOR THE SHOP ROOM NO.255/A-
12 (II/26)
- Exhibit P3 A TRUE COPY OF THE REGISTERED LAWYER
NOTICE DATED 16.10.2018 FROM THE
PETITIONER TO THE RESPONDENT
- Exhibit P4 A TRUE COPY OF R.C.P.NO.90/2018 DATED
5.12.2018
- Exhibit P5 A TRUE COPY OF THE I.A.NO..1/2021 IN
R.C.P.NO.90/2018 BEFORE THE HON'BLE RENT
CONTROL COURT, CHAVAKKADATED 8.12.2021

APPENDIX OF OP (RC) 74/2023

PETITIONERS EXHIBITS

- Exhibit1 P1 TRUE COPY OF THE POWER OF ATTORNEY DATED 22.11.2021 EXECUTED BETWEEN THE 1ST AND 2ND PETITIONER
- Exhibit P2 TRUE COPY OF THE PETITION FILED AS RCP NO. 140/2021 BEFORE THE 3RD ADDITIONAL MUNSIF (RENT CONTROL) COURT, ERNAKULAM
- Exhibit P3 EXTRACT OF THE CASE STATUS REPORT OF RCP NO. 140/2021 TAKEN FROM E COURTS WEB SITE.
- Exhibit P4 TRUE COPY OF IA NO. 8/2023 DATED 16.3.2023 FILED IN RCP NO. 140/2021 BEFORE THE 3RD ADDITIONAL MUNSIF (RENT CONTROL) COURT, ERNAKULAM