

2025 LiveLaw (SC) 1130

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

RAJESH BINDAL; J., MANMOHAN; J.

CIVIL APPEAL Nos.13901-13902 OF 2025; November 21, 2025

(Arising out of Special Leave Petition (C) Nos. 22696-22697 of 2025)

P.U. SIDHIQUE & ORS. versus ZAKARIYA

Kerala Buildings (Lease and Rent Control) Act, 1965 – Sections 11, 12, and 18 – Eviction for Arrears of Rent – Procedure in Appeal – Held, in an appeal challenging an eviction order passed under Section 12(3) of the Act, 1965, a fresh application under Section 12(1) of the Act, 1965 before the Appellate Authority is not mandatory - Section 12(1) specifically bars a tenant from contesting an eviction petition or preferring an appeal unless they have paid or deposited all arrears of rent admitted to be due - The power to evict under Section 12(3) is by operation of law, and no fresh application for eviction is required from the landlord - As the Appellate Authority only tests the exercise of jurisdiction by the Rent Control Court, it is not required to re-determine the issue of default or the outstanding amount of rent - Appellate Authority has full discretion to pass any order in accordance with law, including dismissing the appeal, extending time for deposit, or directing the tenant to pay/deposit the amount determined by the Rent Controller as a condition for hearing the appeal - The Appellate Authority is not obliged to give four weeks' time to deposit the outstanding rent as stipulated in the proviso to Section 12(2) for the Rent Control Court, as the Appellate Authority is not passing an order under Section 12(3) once again -Appeals allowed. [Relied on Manik Lal Majumdar & Ors. vs. Gouranga Chandra Dey & Ors. (2005) 2 SCC 400; Paras 28-38, 43, 44]

For Petitioner(s): Mr. V. Chitambaresh, Sr. Adv. Mr. Karthik S.d., AOR Mr. Tom Joseph, Adv. Mr. C. Govind Venugopal, Adv.

For Respondent(s): Mr. P B Krishnan, Sr. Adv. Mr. Sarath S Janardanan, AOR Mrs. Anila Tharakan Thomas, Adv. Mrs. Vishnupriya P Govind, Adv.

J U D G M E N T

MANMOHAN, J.

1. Leave granted.

THE ISSUE AT SURFACE LEVEL AND AT DEEPER LEVEL

2. At the surface level, the issue that arises for consideration in the present Appeals is whether the Appellants-landlords during the pendency of the Appeals under Section 18 of the Kerala Buildings (Lease and Rent Control) Act, 1965, (hereinafter referred to as 'Act, 1965') before the Rent Control Appellate Court challenging an eviction order passed under Section 12(3) of the Act, 1965 has to once again follow the procedure under Section 12 of the Act, 1965 by filing an application under Section 12(1) of the Act, 1965. However, at the deeper level, the issue that arises for consideration is whether laws are to be interpreted as a force for justice or not.

FACTS

3. Briefly stated, the material facts of the present Appeals are that two shops in the heart of Kochi, Kerala, namely, building No.61/5797 and building No.61/5932A were taken on a monthly rent basis by the Respondent-tenant from the Appellants-landlords.

4. It is the case of the Appellants-landlords that while the monthly rent for the building No.61/5797 and building No.61/5932A was ₹55,000/- and ₹99,187/-, respectively during the relevant period, the Respondent-tenant has not paid rent for building No.61/5797 since February 2020 and for building No.61/5932A since January 2020.

5. In the year 2020, the Appellants-landlords filed two eviction petitions, being RCP No. 187 of 2020 and RCP No.188 of 2020 under Section 11(2)(b) of the Act, 1965 before the Rent Control Court, Ernakulam, alleging that the Respondent-tenant was in arrears of rent. The relevant portion of Section 11 of the Act, 1965 is reproduced hereinbelow: -

“11. Eviction of tenants.—(1) Notwithstanding anything to the contrary contained in any other law or contract a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Act.....

(2) (a) A landlord who seeks to evict his tenant shall apply to the Rent Control Court for a direction in that behalf.

(b) If the Rent Control Court, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied that the tenant has not paid or tendered the rent due by him in respect of the building within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable, it shall make an order directing the tenant to put the landlord in possession of the building, and if it is not satisfied it shall make an order rejecting the application thereof by him:

Provided that an application under this sub-section shall be made only if the landlord has sent a registered notice to the tenant intimating the default and the tenant has failed to pay or tender the rent together with interest at six per cent per annum and postal charges incurred in sending the notice within fifteen days of the receipt of the notice or of the refusal thereof.....”

6. A recovery suit, being O.S. No.71 of 2021, was also filed by the Appellants-landlords before the Subordinate Judges Court, Ernakulam seeking recovery of the arrears of rent. The said suit was decreed on 31st March 2023 for a sum of ₹21,72,360/- along with ₹2,81,154/- as interest and ₹1,91,100/- as cost totalling to ₹26,44,614/-.

7. The said money decree has been challenged by the Respondent-tenant by way of RFA No.269 of 2023 before the High Court of Kerala, wherein initially a conditional stay order was granted for three months. But as the condition to furnish security for the decretal amount was not complied with, the stay order was not extended. Though the Appeal of the Respondent-tenant is pending, yet there is no stay of the money decree in force.

8. Relying on the said money decree in OS No.71 of 2021, Appellants landlords filed I.A. No.5 of 2024 in RCP No.187 of 2020 and I.A. No.8 of 2024 in RCP No.188 of 2020 for eviction of the Respondent-tenant on the ground of non-payment of arrears of rent under Section 12 (1) of the Act, 1965. The relevant portion of Section 12 of the Act, 1965 is reproduced hereinbelow: -

“12. Payment or deposit of rent during the pendency of proceedings for eviction. No tenant against whom an application for eviction has been made by a landlord under section 11, shall be entitled to contest the application before the Rent Control Court under that section, or to prefer an appeal under section 18 against any order made by the Rent Control Court on the application, unless he has paid or pays to the landlord, or deposits with the Rent Control Court or the appellate authority, as the case may be, all arrears of rent admitted by the tenant to be due in respect of the building up to the date of payment or deposit, and continues to pay or to deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Rent Control Court or the appellate authority, as the case may be.

(2) The deposit under sub-section (1) shall be made within such time as the Court may fix and in such manner as may be prescribed and shall be accompanied by the fee prescribed for the service of notice referred to in subsection (4):

Provided that the time fixed by the Court for the deposit of the arrears of rent shall not be less than four weeks from the date of the order and the time fixed for the deposit of rent which subsequently accrues due shall not be less than two weeks from the date on which the rent becomes due.

(3) If any tenant fails to pay or to deposit the rent as aforesaid, the Rent Control Court or the appellate authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.....”

9. On 25th September 2024, the Rent Controller passed an order under Section 12(1) of the Act, 1965 directing the Respondent-tenant to pay the outstanding rent of ₹56,81,126.34 and future rent of ₹1,73,479.56 per month in RCP No.187 of 2020. The relevant portion of the said order is reproduced hereinbelow: -

*“11. In the instant case, the respondent has specifically admitted that he is continuing in possession also. Hence, in the absence of any contra materials on record, the respondent is liable to pay the rent arrears as claimed by the petitioners. On perusal of admitted rent agreement dated 11.06.2018 by the respondent, it reveals that the quantum of rent and as per the said agreement, from January 2020 to March 2020 as Rs.86,250/-pm, which comes to Rs.2,58,750/- (Rs.86,250 * 3 months). From April 2020 to January 2021 at the rate of Rs.99,187.50/-pm, which comes to Rs.9,91,875/- (Rs.99,187.50 * 10 months). From February 2021 to January 2022 at the rate of Rs.1,14,065.63/pm, which comes to Rs.12,54,721.93/- (Rs.1,14,065.63 * 11 months). Further from February 2022 to January 2023 at the rate of Rs.1,31,175.47/-pm, which comes to Rs.14,42,930.17/- (Rs.1,31,175.47 * 11 months). From February 2023 to January 2024 the rate of Rs.1,50,851.79/-pm, which comes Rs.16,59,369.68/- (Rs.1,50,851.79 * 11 months). From February 2024 till March 2024 comes to Rs.1,73,479.56/- (Rs.1,73,479.56 * 1 month). Thus, from the above calculations and admissions from the available materials on record, it reveals the quantum of rent, and the period from which rent amount is due. Hence the total amount due amount as per the above calculations comes to Rs.57,81,126.34/- (Rupees Fifty Seven Lakhs Eighty One Thousand One hundred and twenty six and thirty four paisa only) i.e. from January 2020 till March 2024.*

XXXX XXXX XXXX

15. Point No. 2: In the result, the petition is allowed and a direction is passed under Section 12 (1) of the Kerala Buildings (Lease & Rent Control) Act against the respondent as follows;

1. The respondent is hereby directed to pay admitted monthly rent arrears of Rs.57,81,126.34/- (Rupees Fifty Seven Lakhs Eighty One Thousand One hundred and twenty six and three four paisa Only) which is due as on March 2024, within 30 days from today.

2. The respondent shall continue to remit the rent at the rate of Rs.1,73,479.56/- (Rupees One Lakh Seventy Three Thousand Four Hundred and Seventy Nine and Five Six Paisa Only) per month, which may be subsequently fall due, within 15 days from the date of due till the culmination of rent control proceedings. For compliance 28.10.2024”

10. On the same date, the Rent Controller also passed an order under Section 12(1) of the Act, 1965 directing the Respondent-tenant to pay the outstanding rent of 36,48,515.27 and future rent at the rate of 1,10,624.60 per month in ₹ ₹ RCP No.188 of 2020. The relevant portion of the said order is reproduced hereinbelow:-

“12. In the instant case, the respondent has specifically admitted that he and his wife is continuing in possession also. Hence, in the absence of any contra materials on record, the respondent is liable to pay the rent arrears as claimed by the petitioners. From January 2020 till March 2020 at

the rate of Rs.55,000/comes to Rs.1,65,000/- (Rs.55,00,000/-* 3 months). As per first agreement dated 20.12.2009, it provides for enhancement of rent at the rate of 15% in every 11 months. Thus, from April 2020 onwards rent is enhanced to Rs.63,250/-pm. So from April 2020 onwards till January 2021 comes to Rs.6,32,500/- (Rs.63,250 * 10 months). From February 2021 onwards till January 2022 comes to Rs.8,00,112.50/- (Rs.72,737.50 * 11 months). From February 2022 onwards till January 2023 comes to Rs.9,20,129.43/- (Rs.83,648.13 * 11 months). From February 2023 till January 2024 comes to Rs.10,58,148.74/- (Rs.96,195.34 * 11 months). From February 2024 till March 2024 comes to Rs.1,10,624.60/(Rs.1,10,624.60 * 1 month). Thus from the above calculations and admissions from the available materials on record, it reveals the quantum of rent, and the period from which rent amount is due. Hence the total amount due as on date of filing of this petition, i.e. from January 2020 till March 2024 is seen as Rs.36,86,515.27/- (Rupees Thirty Six Lakhs Eighty Six thousand five hundred and fifteen and twenty seven paisa only).

XXXX XXXX XXXX

16. Point No.3 : In the result, the petition is allowed and a direction is passed under Section 12(1) of the Kerala Buildings (Lease & Rent Control) Act against the respondent as follows;

1. The respondent is hereby directed to pay monthly rent arrears of Rs.36,86,515.27/- (Rupees Thirty Six Lakhs Eighty Six thousand five hundred and fifteen twenty seven paisa only) which is due as on March 2024, i.e till the month of filing of this application, within 30 days from today.

2. The respondent shall continue to remit the rent at the rate of Rs.1,10,624.60/- (Rupees One Lakh Ten Thousand Six hundred Twenty four and Sixty paisa only) per month, which may be subsequently fall due, within 15 days from the date of due till the culmination of rent control proceedings. For compliance 28.10.2024.”

11. Since the Respondent-tenant did not pay/deposit any amount in pursuance of the aforesaid orders within the stipulated time under Section 12(1) of the Act, 1965, the Rent Controller passed orders under Section 12(3) of the Act, 1965 dated 07th November 2024 stopping further proceedings in RCP No.187 of 2020 as well as RCP No.188 of 2020 along with directions to put the Appellantlandlord in possession of both the shops. Considering that the orders dated 7th November 2024 passed under Section 12(3) of the Act, 1965 in RCP Nos.187 and 188 of 2020 are similar, the relevant portion of the order in one of the cases, namely, RCP No.187 of 2020 is reproduced hereinbelow:-

“3. In the instant case, more than one and half month has elapsed after the order has been passed. So far respondent did not complied or show cause. Hence I am of the view that, the respondent having failed to comply with the order in IA 5/2024 and having failed to show sufficient cause for not depositing rent arrears in liable to suffer consequence under Section 12(3) of the Act. Hence an order is passed under Section 12(3) of the act stopping all the further proceedings in the rent control petition and directing the respondent to put the petitioner in vacant possession of the building forthwith. RCP is closed accordingly.”

12. Against the eviction orders dated 7th November 2024 passed under Section 12(3) of the Act, 1965, the Respondent-tenant filed Appeals being RCA No.71 of 2024 and RCA No.72 of 2024 before the Rent Control Appellate Authority under Section 18 of the Act, 1965. The relevant portion of Section 18 of the Act, 1965 is reproduced hereinbelow: -

“18. Appeal.—(I) (a) The Government may, by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of a Subordinate Judge the powers of appellate authorities for the purposes of this Act in such areas or in such classes of cases as may be specified in the order.....”

13. As in the meanwhile, the Appellants-landlords had filed executionpetitions, the Respondent-tenant apprehending that if the possession of shops was taken before the applications for stay were considered, filed petitions being OP (RC No.50 of 2025 and 51

of 2025) before the High Court of Kerala. The Division Bench of the High Court of Kerala vide order dated 21st February 2025 disposed of the aforesaid petitions with a direction to the Rent Control Appellate Authority to dispose of the stay applications within three weeks. Till then, the proceedings in the execution petition were directed to be deferred. The order dated 21st February 2025 passed by the Division Bench of the High Court is reproduced hereinbelow: -

“The petitioner in both case is the tenant, challenging the order of eviction passed by the Rent Control Court and preferred appeals. The appeals have been numbered as RCA Nos.71/2024 and 72/2024. The petitioner has moved applications for stay. The applications are pending. In the meanwhile, the landlord laid execution petitions. The petitioner apprehends that if delivery is effected before application for stay is considered, the appeals will be rendered infructuous.

(2) Having considered the facts and circumstances, we direct the Rent Control Appellate Authority, Ernakulam to dispose the stay applications within three weeks. Till then we order that the proceedings in the execution petition be deferred. The Rent Control Appellate Authority shall also dispose the appeals before the summer holidays, 2025. These Original Petitions are disposed of accordingly.”

14. On 11th March 2025, the Rent Control Appellate Authority passed orders styled as “Orders on deposit of admitted rent” directing the Respondent-tenant to deposit the admitted rent on or before 15th March 2025 as a pre-condition to hear the Appeals. The Appellate Authority specifically observed that ‘since no application is filed under Section 12(1) of the Act before this Court, this Court is not passing any order regarding payment of subsequent arrears after the filing of the appeal by granting time for four weeks....’. It was made clear by the Appellate Authority that ‘in case of non-depositing the rent as mentioned above, this Court will stop hearing the appeal and consequential orders will be passed’.

15. On the Respondent-tenant’s failure to deposit the rent within the stipulated time, the Appellate Authority passed judgments dated 19th March 2025 in RCA No.71 of 2024 (against RCP No.188 of 2020) and RCA No.72 of 2024 (against RCP No.187 of 2020) stopping hearing of the Appeals and directing the Respondent-tenant to comply with the orders dated 07th November 2024 passed by the Rent Controller under Section 12(3) of the Act, 1965. Since the judgments dated 19th March 2025 in RCA No.71 of 2024 and RCA No.72 of 2024 are similar, the relevant portion of the judgment in RCA No.71 of 2024 is reproduced hereinbelow: -

“15.....So far the appellant has not deposited any amount. In this matter also he is not ready to deposit the rent as ordered by the rent control court. Without depositing the said amount the appeal cannot be considered on merits in view of the aforesaid binding judicial precedents. The appellant is a person who is not even ready to furnish security to comply with the conditional order of stay passed in the appeal against the judgment and decree in the above suit. In this matter from the above discussions and also from the order of the trial court it is clear that there are prima facie materials available on record disclosing arrears of rent.....This court should also bear in mind that once an order is passed under S. 12(3), subsequent payment made by the tenant would not absolve him from the statutory consequences. The question of enlargement of time applies only during the pendency of a petition filed under S. 12(1) and till an order is passed under S. 12(3). (Haridas P. R. v. Manoj 2025 KHC 1613). Hence time cannot be extended in appeal.

16.....Hence the appellant was directed to deposit the admitted rent on or before 15/03/2025. The appellant did not comply with the order. The appellant had only submitted about an order of stay passed which was never passed and the same was conceded by him later. In these circumstances the hearing of the appeal is stopped and the appellant/ tenant is directed to comply with order of the Rent control Act. In view of the order of stay passed by the Hon’ble High Court

in the above matter the execution of order is deferred till the vacating of the stay by the Hon'ble High Court.

In the result, the hearing of the appeal is stopped and the appellant/ tenant is directed to comply with order of the Rent Control Court. In view of the order of stay passed by the Hon'ble High Court in the above matter the execution of order is deferred till the vacating the stay by the Hon'ble High Court. The respondents are entitled to get costs through out the appeal."

16. The Respondent-tenant filed revision petitions before the High Court being RCREV Nos.102 of 2025 and 114 of 2025. The said revision petitions were allowed by the Division Bench of the High Court vide judgment and order dated 22nd May 2025 observing as under: -

".....It is unfortunate that the Appellate Authority, without looking at the Larger bench decision as well as the Division Bench decision of this court, proceeded to stop the proceedings in the appeal, holding that the tenant failed to deposit the rent arrears as ordered by the Rent Control Court in proceedings initiated under Section 12(1) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'), even though no such application was filed before the Appellate Court under Section 12(1) of the Act. If there was an application filed under Section 12(1) of the Act, no doubt the Appellate Authority could have passed an order stopping the proceedings, consequent upon non-compliance with the direction under Section 12(1) of the Act....."

2. *The learned counsel for the respondents/landlord tried to rely on the Larger Bench decision of this Court in Zeenath Ibrahim v. Joy Daniel [2024 (7) KHC 195]. In fact, the Larger Bench only decided the question whether an application under Section 12(1) of the Act is maintainable in an appeal preferred under Section 18 of the Act, challenging an order passed under Section 12(3) of the Act. The Larger Bench held that such an application is maintainable. That means, in order to stop all the proceedings in an appeal under Section 18 of the Act, there must be an application under Section 12(1) of the Act and without such an application under Section 12(1) of the Act, the Appellate Court cannot dispose of the appeal or stop the proceedings based on the orders passed by the Rent Control Court. It is possible that a perverse order may be passed by the Rent Control Court, and the Appellate Court will have to apply its mind under Section 12(1) of the Act to decide whether a direction to pay the admitted arrears of rent should be passed or not. It is for the Appellate Court to decide whether such a direction under Section 12(1) should be passed. If such an application is not filed, the Appellate Court will have to decide the matter on its merit in regard to the legality of the order passed under Section 12(3) of the Act. Without such an application, the Court cannot stop the entire proceedings and reject the case of the tenant. The Appellate Authority has bypassed all the procedures contemplated under the law while deciding this appeal. In fact, the matter ought to have been decided on its merit itself instead of passing such an order. The appellate authority could have disposed of the appeal itself on merits within the time taken by it to pass the impugned order. We deprecate the practice of the Rent Control Appellate Authority adopting such a shortcut method overlooking the decisions of the Larger Bench and Division Bench of this Court.*

3. *Accordingly, the impugned order is set aside, and the appeal is restored to files. We direct the Appellate Authority dispose of the appeal in accordance with law within four weeks from the date of appearance. However, if any application is filed under Section 12(1) of the Act, the same shall also be considered in accordance with law....."*

17. Aggrieved by the aforesaid judgment and order dated 22nd May 2025, the Appellants-landlords filed the present Special Leave Petitions.

ARGUMENTS ON BEHALF OF APPELLANTS-LANDLORDS

18. Mr. V. Chitambareash, learned senior counsel for the Appellants-landlords raised an issue as to how many times should the landlord file an application under Section 12(1) of the Act, 1965 to stop the proceedings for not paying the admitted arrears of rent?

19. He submitted that the matter in issue is covered by the three Judges' judgment of this Court in **Manik Lal Majumdar & Ors. vs. Gouranga Chandra Dey & Ors., (2005) 2 SCC 400** dealing with Tripura Buildings (Lease and Rent Control) Act, 1975, which is identically worded to Section 12 of the Act, 1965 in question. He pointed out that this Court in the said judgment has held that, 'arrears of rent admitted by the tenant to be due' means the inference of admission from the material on record and in the present case, the material on record shows that there is a money decree *qua* arrears of rent which continues to operate. He further submitted that the expression 'prefer an Appeal' means the payment or deposit as a pre-condition for filing a memorandum of appeal. The relevant portion of the three Judges' judgment in **Manik Lal Majumdar & Ors.** (supra) relied upon by learned senior counsel for the Appellants-landlords is reproduced hereinbelow:-

"6.The expression "all arrears of rent admitted by the tenant to be due", if interpreted literally, would mean that unless the tenant specifically admits any arrears of rent to be due to the landlord, the condition to make the payment of arrears of rent in order to contest the original proceedings before the Rent Control Court or to prefer an appeal as provided under Section 13 of the Act would not arise. The High Court in Binapani Roy case [(1994) 1 Gau LR 98] has held that giving literal meaning to the words "admitted by the tenant to be due" would frustrate the provisions of Section 13 of the Act and make the same nugatory or otiose. The object of sub-section (1) of Section 13 of the Act is to avoid litigation for realisation of arrears of rent which is likely to accumulate during the course of litigation, which may be a long period and also to deter the tenant from resorting to an unfair practice to use and occupy the tenanted premises without payment of any rent so long as the litigation continues. The High Court was of the opinion that the reasonable meaning of the words "admitted by the tenant to be due" is the inference of admission from the material on record. If the material on record prima facie discloses the admission of relationship of landlord and tenant and the rate of monthly rent payable, the tenant would be required to pay or deposit arrears of rent and continue payment of current rent during the pendency of the litigation, as enjoined under Section 13 of the Act. Dharmadhikari, J. has expressed his concurrence with the aforesaid view taken by the Division Bench of the Gauhati High Court in the case of Binapani Roy [(1994) 1 Gau LR 98]. We are also of the opinion that the view taken by the Division Bench of the High Court on this point is perfectly sound as giving a literal meaning to the expression "all arrears of rent admitted by the tenant to be due" may defeat the very object of enacting Section 13 of the Act and an unscrupulous tenant may continue to enjoy the premises without payment of any rent to the landlord by protracting the litigation and the landlord may have to wait till the final decision of the case to recover his dues by taking execution proceedings.

XXXX XXXX XXXX

8.The full play and effect cannot be given to sub-sections (2) and (3) of Section 13 of the Act if the expression "prefer an appeal" is interpreted to mean that the payment to the landlord or deposit with the Rent Control Court of all arrears of rent admitted by the tenant to be due, is a precondition for filing a memorandum of appeal. However, if such payment or deposit of arrears of the admitted rent is not held to be a precondition for mere filing or presentation of memorandum of appeal, it will be possible for the Appellate Authority to give full effect to sub-sections (2) and (3) of Section 13 of the Act.

9. The dictionary meaning of the word "prefer" is as under:

To bring forward for consideration; to place in advance; to bear before; put before; to move ahead or set forward.

According to Black's Law Dictionary, the word "prefer" means as under:

"To bring before; to prosecute; to try; to proceed with. Thus, preferring an indictment signifies prosecuting or trying an indictment."

20. He emphasised that the total amount due in respect of RCP No.187 of 2020 is ₹56,77,758.07 and total rent due in respect of RCP No.188 of 2020 is ₹89,03,758.42

totalling to ₹1,45,81,516.49. According to him, the judgments of the Rent Control Appellate Authority stopping the hearing of the Appeals were well founded and have been erroneously set aside by the impugned judgment dated 22nd May 2025 passed by the Division Bench of the High Court.

ARGUMENTS ON BEHALF OF RESPONDENT-TENANT

21. *Per contra*, Mr. P.B. Krishnan, learned senior counsel for Respondent-tenant submitted that the power conferred under Section 12 of the Act, 1965 is of drastic nature and is to be exercised in a summary manner. According to him, as it is a concurrent power which can be exercised by either the Rent Controller or the Appellate Authority by following the prescribed procedure, the Appellate Authority is obliged to follow the entire procedure once again under Section 12 of the Act, 1965. He submitted that if the procedure is not followed, the summary final order would be without jurisdiction.

22. Consequently, according to him, in the present case where an application under Section 12(1) of the Act, 1965 was not filed before the Rent Control Appellate Authority, there was no scope for conducting an enquiry and/or passing a summary order under Section 12(3) of the Act, 1965. In support of his submission, he relied upon the Full Bench judgment of the Kerala High Court in **Zeenath Ibrahim & Ors. vs. Joy Daniel, 2024 SCC OnLine Ker 6489**, wherein it has been held as under: -

“21. In conclusion, we answer the reference as follows:

(i) An order passed in exercise of the power under Section 12(3) of the Rent Control Act is essentially an order passed on an application under Section 11 and, as such, falls within the purview of the expression “any order” in Section 12.

(ii) An order passed under Section 12(3) of the Rent Control Act during the course of eviction proceedings under Section 11 has all the characteristics, trappings and effect of a final order passed under Section 11.

(iii) An application under Section 12(1) of the Rent Control Act is maintainable in an appeal filed under Section 18 against an order passed under Section 12(3).

(iv) An application under Section 12(1) of the Rent Control Act is maintainable not only in appeal from a final order of eviction under Section 11 but also in appeals arising from other types of orders passed during the course of proceedings under Section 11 before the Rent Control Court.

(v) The judgments in City Coop. Hospital case, R. Sulaiman Sahib case and Mohd. Shameer case do not lay down the correct law and are hereby overruled.

Relief

22. In view of the declaration of law that an application under Section 12(1) of the Rent Control Act is perfectly maintainable in an appeal filed against an order passed under Section 12(3), the judgment of the Full Bench in Joy Daniel is reversed.....”

23. In any event, he submitted that a summary order under Section 12(3) of the Act, 1965 stopping the procedure and evicting the tenant could have been passed by the Appellate Authority only after giving thirty days' time once again to the Respondent-tenant to deposit or show cause. He pointed out that in the present cases, the Appellate Authority had given only four days' time to pay/deposit the outstanding arrears of rent. Therefore, he submitted that the Appellate Authority had no jurisdiction to proceed under Section 12(3) of the Act, 1965.

24. He further submitted that the question whether an Appellate Authority can prevent a tenant from preferring an Appeal/refusing to hear/strike of an Appeal arose in a case

under Section 13 of the Tripura Building (Lease and Rent Control) Act, 1975 which is *para materia* to Section 12 of the Act, 1965, except the period is forty-five (45) days in the Tripura Building (Lease and Rent Control) Act, 1975 and four (4) weeks in the Act, 1965. He stated that two Judges of this Court differed on the interpretation of the expression 'prefer an Appeal' in **Manik Lal Majumdar & Ors. vs. Gouranga Chandra Dey & Ors., (2004) 12 SCC 448** and the matter was referred to a larger Bench. The relevant portion of the differing opinions is reproduced hereinbelow: -

"20. In view of the discussion made and reasons stated, the question set out above is answered in the negative meaning thereby payment or deposit of all arrears of rent admitted is mandatory before preferring an appeal by a tenant under Section 20 of the Act. Hence, the appeal is dismissed finding no merit in it, with no order as to costs.

XXXX XXXX XXXX

56. *As a result of the detailed discussion aforesaid of the provisions under consideration before us, I have come to the conclusion that a tenant can file or present a memo of appeal within the prescribed period of thirty days excluding the time for obtaining certified copy of the order in accordance with sub-section (1) of Section 20 but until and unless he seeks an order from the Appellate Authority in accordance with sub-section (2) of Section 13 and makes deposit of all arrears of rent and continues to pay future rent in the manner and within the time directed by the Appellate Authority, he would not be entitled to prosecute the appeal and obtain any interim or final relief against the order of the Rent Control Court as is contemplated in sub-sections (2) and (3) respectively of the said section.*

57. *In the result, the appeal preferred by the tenant is allowed. The impugned order passed by the Division Bench is set aside. The case is sent back to the Appellate Authority with liberty to the tenant to invoke provisions of sub-section (2) of Section 13 as interpreted above.*

ORDER OF THE COURT

58. *In view of divergency of opinion on the question whether an appeal can be preferred by a tenant under Section 20 of the Tripura Buildings (Lease and Rent Control) Act, 1975 (for short "the Act") without making payment or deposit of admitted arrears of rent, as stated in Section 13(1) of the Act, the civil appeal is to be posted before a larger Bench, after obtaining the order of the Hon'ble Chief Justice."*

25. He stated that the three Judges' Bench of this Court in **Manik Lal Majumdar & Ors.** (supra) resolved the conflict by holding that there is no legal impediment for presenting an Appeal without deposit of rent and the Appellate Authority could exercise jurisdiction to order a summary eviction by following the procedure. Thus, according to him, the Appeal could not be struck off/ or stopped without following the prescribed procedure once again under Section 12 of the Act, 1965. The relevant portion of the three Judges' judgment in **Manik Lal Majumdar & Ors.** (supra) relied upon by learned senior counsel for the Respondent-tenant is reproduced hereinbelow: -

"11.....We are, therefore, of the opinion that on a conjoint reading of all the provisions of the Act and giving a fair and reasonable interpretation thereto, an appeal under Section 20 of the Act may be filed or presented without payment to the landlord or deposit with the Appellate Authority of all arrears of rent admitted by the tenant to be due, and it cannot be held to be incompetent. However, it will be open to the Appellate Authority not to proceed with the hearing of the appeal or to pass any interim order in favour of the appellant tenant until he has paid or deposited all arrears of rent admitted by him to be due, and for such purposes the Appellate Authority shall have all the powers under sub-sections (2) and (3) of Section 13 of the Act.

12. *The view taken by the Appellate Authority that as the appellant (tenant) had not paid or deposited all arrears of rent admitted by him to be due the appeal filed by him was incompetent is, therefore, clearly unsustainable in law and the revisional authority rightly set aside the said*

order and remanded the matter for fresh consideration by the Appellate Authority. The Division Bench of the High Court, under the impugned order, has held that the reference to larger Bench made by the learned Single Judge was not called for and directed the writ petition to be placed for hearing on merits before the learned Single Judge. Since we have held that the appeal filed by the appellant against the decision of the Rent Control Court could not be rejected only on the ground that the admitted arrears of rent had not been paid or deposited, the hearing of the writ petition now by the learned Single Judge would entail waste of public time.....”

26. He submitted that the High Court in the impugned orders has directed the Appeals to be disposed of only reserving the liberty of the Appellants-landlords to invoke the procedure under Section 12 of the Act, 1965. He submitted that the impugned order is consistent with the law laid down by the larger Bench of the High Court and the judgment of the three Judges in **Manik Lal Majumdar & Ors.** (supra).

REJOINDER ARGUMENTS

27. In rejoinder, Mr. V. Chitambaresh, learned senior counsel submitted that when the deposit/payment of outstanding rent is a pre-condition for filing an Appeal as held by the three Judges’ bench in **Manik Lal Majumdar & Ors.** (supra), there is no question of following the procedure under Section 12 of the Act, 1965 once again. He submitted that the Full Bench judgment of the Kerala High Court in **Zeenath Ibrahim** (supra) is required to be overruled to the above extent.

REASONING

IN AN APPEAL A FRESH APPLICATION UNDER SECTION 12(1) OF THE ACT, 1965 IS NOT MANDATORY

28. As articulated hereinabove, the primary issue that arises for consideration in the present cases is whether the Section 12 procedure has to be repeated before the Rent Control Appellate Authority while hearing an Appeal challenging an eviction order passed under Section 12(3) of the Act, 1965 by the Rent Control Court?

29. Upon an analysis of the Act, 1965, this Court is of the view that Section 12(1) specifically stipulates that no tenant shall be entitled to contest either an eviction petition before the Rent Control Court or an Appeal before the Rent Control Appellate Authority unless he has paid or deposited with the Court, as the case may be, all arrears of rent admitted by the tenant to be due and continues to pay the rent which may subsequently become due. In the event of non-deposit/non-payment of rent without any sufficient cause, Section 12(3) empowers the Courts to stop all proceedings and make an order directing the tenant to put the landlord in possession of the building. Since the power to evict under Section 12(3) is by operation of law, not even an application for eviction is required to be filed by the landlord.

30. This Court is further of the view that as the Rent Control Appellate Authority is not the Court of first instance, it only tests the exercise of jurisdiction and power by the Rent Control Court. The Appellate Authority is not required to re-determine the issue of default or the outstanding amount of rent. It has only to examine as to whether the Rent Control Court has erred in law or in facts and/or has exercised its jurisdiction in accordance with law.

31. While hearing the appeal, the Appellate Authority has full discretion to pass any order in accordance with law, including an order dismissing the Appeal and/or extending the time to deposit/pay the arrears of rent, or if it finds substantial merit in the Appeal, it may issue notice and unconditionally stay the impugned order of eviction, or if it finds that the Appeal raises an argument which is plausible but improbable, it may direct the

Appellant to pay/deposit the amount determined by the Rent Controller pending the hearing of the Appeal. Though the power of the Appellate Authority cannot be put in a straitjacket, yet normally speaking, a tenant must be directed to pay/deposit the amount determined by the Rent Controller before an Appeal is heard by the Appellate Authority and that too when a money decree has been passed by a Civil Court which has not been stayed by the Appellate Court. No doubt, a money decree can be stayed in exceptional cases like where the decree is egregiously perverse or riddled with patent illegalities or facially untenable and/or such other exceptional causes similar in nature.[See: ***Lifestyle Equities & Anr. vs. Amazon Technologies Inc., 2025 SCC OnLine SC 2153***]. But in the present case, no such exceptional case has been found by the Appellate Court.

32. The Respondent-tenant's submission that in an Appeal challenging an eviction order under Section 12(3) of the Act, 1965 a fresh application under Section 12(1) of the Act, 1965 is mandatory, is contrary to the explicit language of Sections 12 and 18 of the Act, 1965. This Court is of the view that Sections 12(1) and 12(3) procedure is to be primarily followed by the Rent Controller. It is essentially in cases where supervening events have taken place during the pendency of Appeal, that the parties have the liberty to file an application under Section 12 of the Act, 1965 once again before the Appellate Authority like where rent has been paid till the date of filing of the Appeal, but by the time the Appeal has matured for hearing, further rent has accrued, which has not been paid. In such a case, it would be open to the Appellate Authority to entertain a fresh application under Section 12(1) by the landlord and decide the same in accordance with the procedure stipulated under Section 12 of the Act, 1965.

LAWS ARE TO BE INTERPRETED WITH EMPATHY AND PRAGMATISM AND AS A FORCE OF JUSTICE, NOT ABSURDITY

33. This Court is of the opinion that if the High Court's reasoning in the impugned order (that the Section 12 procedure has to be repeated before the Rent Control Appellate Authority) is accepted, it would not only be contrary to the spirit of the statute in question, but it would also lead to an absurd and unjust result, inasmuch as, it is akin to suggesting that in an Appeal challenging an order decreeing the suit under Order XII Rule 6 of the Code of Civil Procedure ('CPC'), the Respondent-decree holder would have to once again file an application under Order XII Rule 6 CPC before the Appellate Authority or if an Appeal is filed challenging an order rejecting the plaint under Order VII Rule 11 CPC, then the Respondent-defendant would have to file the application under Order VII Rule 11 CPC once again before the Appellate Court.

34. While it is true that it is not for the Courts to reject or refuse to give effect to legislation merely on the grounds that the clear meaning of the legislation appears absurd to the judiciary, when forced to construe a provision, the meaning of which is open to question they will lean against any construction that would produce a result which appears to them to be absurd or unjust. As the majority held in ***R vs. Alfred Skeen & Freeman, (1859) 28 LJMC 91*** "*if the language employed admit of two constructions, and according to one of them the enactment would be absurd and mischievous, and according to the other it would be reasonable and wholesome, we surely ought to put the latter construction upon it as that which the legislature intended...*"

35. It is settled law that the more absurd a suggested conclusion of construction is, the more the Court will lean against that conclusion that is ordinarily so whether one is construing a contract or a statute. (See: ***Emmerich Hatzl vs. XL Insurance Co Ltd [2009] EWCA Civ 223, Maloba vs. Waltham Forest London Borough Council [2007] EWCA Civ. 1281, Barclays Mercantile Business Finance Ltd vs. Mawson [2004] UKHL 51,***

Project Blue Ltd vs. Commissioners for Her Majesty's Revenue and Customs [2018] UKSC 30, The Commissioners for His Majesty's Revenue and Customs vs. Jason Wilkes [2022] EWCA Civ 1612). According to *Craies on Legislation, Thirteenth Edition*, one of the most honest and revealing judicial statements that illustrates the reality of the “*presumption against absurdity*” is found in the brief observation of Lord Saville agreeing with his colleagues in the case of ***R. (on the application of Noone) v Governor of HMP Drake Hall [2010] UKSC 30***. Lord Saville says simply:

“I would allow this appeal. For the reasons given by Lord Phillips and Lord Mance. I have no doubt that by one route or another the legislation must be construed so as to avoid what would otherwise produce irrational and indefensible results that Parliament could not have intended.”

36. This Court is of the view that human beings, and not artificial intelligence or computers, are entrusted with the duties of administration of justice as laws are to be interpreted with empathy and pragmatism and as a force of justice, not absurdity. The danger of mechanical application of law, blind to practical reality, was famously encapsulated by Charles Dickens in the classic ‘*Oliver Twist*’, where Mr. Bumble lamented, “*If the law supposes that ...the law is a ass,*” critiquing legal formalism that disregards common sense and fairness. Consequently, Courts must balance textual fidelity with interpretive wisdom, ensuring that laws are not applied mechanically without considering context or equity; but serve as true vehicles for the administration of justice.

37. Accordingly, this Court is of the opinion that if the view of the High Court as articulated in the impugned order is accepted, it would turn the summary procedure ‘*on its head*’ and delay the eviction of an ‘*intransigent and recalcitrant tenant*’.

MANIK LAL MAJUMDAR DOES NOT STIPULATE THAT THE ENTIRE PROCEDURE UNDER SECTION 12 HAS TO BE REPEATED IN APPEAL

38. Also, the three Judges’ judgment of this Court in ***Manik Lal Majumdar & Ors.*** (supra) only states that the Rent Control Appellate Authority while hearing the Appeal has the discretion either not to proceed with the hearing till the amount directed by the Rent Controller is deposited or to pass any interim order in favour of the Respondent-tenant, including dispensation of payment of arrears of rent.

39. However, this Court is of the view that it is one thing to say that the Appellate Authority has the power to dispense with pre-deposit of arrears of rent and quite another thing to say that the entire procedure under Section 12 has to be mandatorily repeated before the Rent Control Appellate Authority. Upon careful reading of the three Judges’ judgment in ***Manik Lal Majumdar & Ors.*** (supra), this Court is of the opinion that the said judgment cannot be a basis for the proposition that the entire procedure under Section 12 has to be repeated before the Rent Control Appellate Authority.

40. Further, the Respondent-tenant’s reliance on the expression in the said judgment ‘*and for such purpose the Appellate Authority shall have all the powers under sub-section (2) and (3) of Section 13 of the Act*’ is misconceived as it is not permissible to pick out a word or sentence diverse from the context. This Court is of the view that the aforesaid expression only enables the Appellate Authority to pass any order it deems appropriate in the facts of each case. Moreover, it is settled law that a judgment is not to be read like an Enactment or Statute. (See : ***Rekha Mukherjee vs. Ashish Kumar Das and Anr., (2004) 1 SCC 483, Escorts Ltd. vs. Commissioner of Central Excise, Delhi-II, (2004) 8 SCC 335, State of Orissa and Ors. vs. Mohd. Illiyas, (2006) 1 SCC 275, State of Karnataka***

and Ors. vs. C. Lalitha, (2006) 2 SCC 747, Commissioner of Central Excise, Delhi vs. Allied Air-Conditioning Corpn. (Regd.), (2006) 7 SCC 735)

41. Additionally, this Court is of the view that as the Rent Control Appellate Authority has full power to examine the legality and validity of the eviction order passed by the Rent Controller under Section 12(3) of the Act, 1965, to insist upon the Appellant-landlord to repeat the procedure under Section 12 of the Act, 1965 would be a superfluous and unnecessary exercise.

THE FULL BENCH JUDGMENT ONLY CLARIFIES THAT A SECTION 12(1) APPLICATION IS MAINTAINABLE IN AN APPEAL

42. There is also no such requirement stipulated in the Full Bench judgment of the Kerala High Court in **Zeenath Ibrahim** (supra). The Full Bench of the Kerala High Court only clarifies in its conclusion, in particular, in directions (iii) and (iv) that an application under Section 12(1) of the Act, 1965 is maintainable in an Appeal filed under Section 18 of the Act, 1965 challenging any type of order passed by the Rent Control Court during the course of the proceedings under Section 11 of the Act, 1965. This enabling power which may be required to be exercised in myriad of circumstances like subsequent events cannot be read to mean that the Full Bench has directed that in every Appeal filed under Section 18 challenging an eviction order on the ground of nonpayment of rent under Section 12(3) of the Act, 1965, the entire procedure under Section 12 of the Act, 1965 has to be repeated by the Appellant-landlord, even if he has succeeded before the Rent Controller.

THERE IS NO PROVISION THAT THE APPELLATE AUTHORITY HAS TO GIVE FOUR WEEKS' TIME TO PAY/DEPOSIT THE OUTSTANDING RENT

43. The Respondent-tenant's submission that in the present case, the Rent Control Appellate Authority has committed a grave error in law, inasmuch as, it has given only four (4) days' time to vacate instead of four (4) weeks' time as stipulated in Section 12(3), is contrary to law as nowhere the Act, 1965 stipulates that even the Appellate Authority has to mandatorily give four weeks' time to the Respondent-tenant to pay/deposit the outstanding rent determined by the Rent Controller. Additionally, this Court is of the opinion that as the Appellate Authority does not have to pass an order under Section 12(3) once again, it is not obliged to give four weeks' time to deposit the outstanding rent.

44. One should not forget that the eviction order has been passed by the Rent Control Court in the present case only due to failure of the Respondent-tenant to pay the admitted rent within the stipulated time.

45. In any event, the said argument of the Respondent-tenant '*holds no water*', inasmuch as, more than seven months have passed since the Appellate Authority gave time to the Respondent-tenant to pay the admitted dues and no amount has been paid/deposited till date.

RESPONDENT-TENANT IS OCCUPYING TWO PREMIER SHOPS IN THE HEART OF KOCHI WITHOUT PAYING ANY RENT FOR THE LAST FIVE YEARS

46. Moreover, on facts, the admitted position that emerges is that the Respondent-tenant is occupying two premier shops in the heart of Kochi, Kerala '*without paying a farthing*' for the last more than five years and that too despite a money decree in OS No.71 of 2021 staring him on the face and that too without any stay in appeal.

47. Further, though Sections 11 and 12 of the Act, 1965 provide for a summary procedure for eviction of tenants who fail to pay or deposit the rent without sufficient cause,

the Respondent-tenant in the present case by advancing procedural arguments has turned the summary procedure '*on its head*' and managed to occupy the premises for several years without paying/depositing any rent.

CONCLUSION

48. Consequently, this Court is of the view that the Division Bench of the High Court by way of the impugned order has arbitrarily and contrary to the intent and object of the Act, 1965 set aside the order of the Appellate Authority. Accordingly, the impugned judgment and order dated 22nd May, 2025 passed by the Division Bench is set aside and the judgment and order dated 19th March, 2025 passed by the Appellate Authority is restored. The Respondent-tenant is directed to handover vacant physical possession of the shops in question to the Appellants-landlords on or before 31st December 2025 provided he files an undertaking within two weeks with the Registry of this Court to pay the outstanding arrears and handover peaceful physical possession by the aforesaid date. In the event of failure to file the undertaking within stipulated time, Appellants-landlords shall be at liberty to execute the eviction decree dated 19th March 2025 forthwith.

49. With the aforesaid observations/directions, the appeals are, accordingly, allowed.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)