

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MR.JUSTICE P. KRISHNA KUMAR

Monday, the 3rd day of February 2025 / 14th Magha, 1946

OP (RC) NO. 16 OF 2025

EP 402/2023 OF MUNSIF COURT, KUTHUPARAMBA, KANNUR

PETITIONERS/PETITIONERS/EP RESPONDENTS/RENT CONTROL
REVISIONERS/APPELLANTS/RESPONDENTS:

1. VADAVATHI RAJEEVAN, AGED 52 YEARS, S/O. BHASKARAN,, MECHANIC, P.O. MOORYAD, KUTHUPARAMBA AMSOM, MOORYAD DESOM, THALASSERY TALUK, PIN - 670692
2. KUNHIPARAMBATH SUDEEP, AGED 44 YEARS, S/O. BHASKARAN MECHANIC, PUTHUR AMSOM, CHENDAYAD DESOM, THALASSERY TALUK,, PIN - 670692

RESPONDENTS/RESPONDENTS/EP PETITIONERS/RESPONDENTS/RESPONDENTS/PETITIONERS:

1. K.VANAJA, AGED 66 YEARS, W/O. LATE AGED VENUGOPALAN, , HOME MAKER, LAKSHMI NIVAS", THOKKILANGADI, KUTHUPARAMBA AMSOM, AMBILAD DESOM, THALASSERY (PO) NIRMALAGIRI., PIN - 670672
2. VIDHYALAKSHMI, AGED 35 YEARS, D/O. VENUGOPALAN, YEARS, HOME MAKER, "LAKSHMI NIVAS", THOKKILANGADI, KUTHUPARAMBA AMSOM, AMBILAD DESOM, THALASSERY (PO) NIRMALAGIRI. , PIN - 670672

Op (rent control) praying inter alia that in the circumstances stated in the affidavit filed along with the OP (RC) the High Court be pleased to stay all further proceedings in EP No.402/2023 before the Munsiff Court, Kuthuparamba, including the delivery of possession of the petition schedule building and direct the respondents not to take any coercive step based on the eviction order passed in RCP No. 80/2021 and confirmed in RCA No.80/2023 and RCR No.144/2024 so as to render justice.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of OP (RC) and this court's order dated 29/01/2025 and upon hearing the arguments of M/S.K.V.PAVITHRAN, JAYANANDAN MADAYI PUTHIYAVEETIL, JITHIN S SUNDARAN & ADARSH KURIAN, Advocates for the petitioners and of Sri R.SURENDRAN Advocate for the Respondents, the court passed the following:

A. MUHAMED MUSTAQUE & P. KRISHNA KUMAR, JJ.

O.P. (RC) No.16 of 2025

Dated this the 3rd day of February, 2025

REFERENCE ORDER

A.Muhamed Mustaque, J.

The question in this case revolves around whether consequent upon a Panchayat becoming a Municipality, a further Notification under Section 1(3) of the Kerala Buildings (Lease And Rent Control) Act, 1965 (for short 'the Act') is required or not.

2. The fact was that the area where the building is located was originally in a Panchayat area and as per the Schedule under Section 1(3) of the Act, this area is coming under the Koothuparamba Panchayat. Thereafter, the Koothuparamba Panchayat became a Municipality with effect from 01.04.1990. The question is whether further Notification is required under Section 1(3) of the Act or not?

3. The petitioners are the tenants. They raised objection before the Execution Court. The Execution Court overruled the objection.

4. The petitioners rely on a judgment of this Court in OP (RC) No.154/2024 dated 25.11.2024. This Court in the above judgment held that when an area in a Panchayat later becomes part of a Municipality, a fresh Notification is required. According to us, the above judgment of the Division Bench is *prima facie* against the provisions of the Act. Under Section 1(3) of the Act, Notification is in respect of the area and not based on the nature of the local authority. Once the area is notified, whether it later becomes Panchayat, or Corporation has no impact unless the area is excluded by separate Notification or exempted under Section 25 of the Act. Without looking into the legal impact of Section 1(3) of the Act, the learned Division Bench proceeded to decide the law contrary to Section 11(3) of the Act.

In such circumstances, we are of the view that the matter has to be placed before the Full Bench after placing

the matter before the Honourable the Chief Justice. However,
we direct the Execution Court to proceed with the execution.

Sd/-

**A. MUHAMED MUSTAQUE,
JUDGE**

Sd/-

**P. KRISHNA KUMAR,
JUDGE**

MJL

