



2025:KER:42879

O.P. (RC) No.93 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

TUESDAY, THE 17TH DAY OF JUNE 2025 / 27TH JYAISHTA, 1947

OP (RC) NO. 93 OF 2025

**AGAINST THE ORDER DATED 30.09.2024 IN RCA NO.25 OF
2022 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - V,
THIRUVANANTHAPURAM / II ADDITIONAL MACT ARISING OUT OF THE
ORDER DATED 22.07.2022 IN RC NO.62 OF 2019 OF RENT CONTROL
COURT, THIRUVANANTHAPURAM**

PETITIONER/APELLANT/RESPONDENT:

**SURESH, AGED 63 YEARS, S/O APPUKUTTAN,
KIZHAKKEVILA VEEDU, MANNANTHALA, NALANCHIRA P.O,
THIRUVANANTHAPURAM, PIN - 695 015**

**BY ADVS.
SRI.S.MOHAMMED AL RAFI
SMT.THAJUNA MARIA FRANCIS**

RESPONDENT/RESPONDENT/PETITIONER:

**SREE NARAYANA SMARAKA SAMATHI TRUST, BEARING REG
NO.2610/1997, MANNANTHALA, THIRUVANANTHAPURAM
REPRESENTED BY ITS PRESIDENT, K KATHIRESAN, AGED
77 YEARS, S/O KRISHANAN, RESIDING AT JYOTHI
NIVAS, SN NAGAR, MANNANTHALA, THIRUVANANTHAPURAM,
PIN - 695 015**



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BY ADVS.
SHRI.RAHUL KRISHNAN U.S.
SHRI.KIRAN KRISHNA
SHRI.SIDDIQUE SULAIMAN

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION
ON 17.06.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



J U D G M E N T

A. Muhamed Mustaque, J.

This original petition was filed by the tenant, who had already been evicted through the execution proceedings. The rent control appeal filed by the petitioner has been dismissed for default. Thereafter, an application for restoration has been filed, and the same also has been dismissed for default.

2. It is stated before this Court that the restoration petition happened to be dismissed, as there was no updation on the e-Courts website in regard to the posting of the case. Accordingly, we passed the following order on 10.04.2025.

"The petitioner submits that the Rent Control Appeal filed by him was dismissed due to non-representation. It is stated that the case was adjourned on 03.03.2025, 06.03.2025, and lastly on 07.03.2025. On all these occasions, the petitioner's counsel was absent, allegedly due to the lack of updation on the e-Courts website regarding the posting of the case. Ultimately, the Appellate Court dismissed the RCA on 07.03.2025. The Registry is directed to call for remarks from the Rent Control Appellate Authority-V, Thiruvananthapuram, as well as from the Director of IT, regarding the allegation of non-updation of the e-Courts website. A report shall be filed before this Court by next



**posting. In the meantime, we direct that status quo be maintained with respect to the tenanted premises.
Issue notice to the respondent by speed post."**

3. The report indicates that there was a mistake on the part of the bench clerk in updating the website. It is appropriate to refer to the following paragraph of the report.

"In this context, I would like to submit that the RCA was not pending. The interlocutory application for restoration of RCA was updated in the Case Information System Software. But when it was advanced based on the petition filed by the petitioner/tenant, it was omitted to update as Bench Clerk was on leave and the staff in charge of Bench Clerk omitted updating it on the Case Information System Software due to oversight. But I had pronounced the next posting dates in the open Court and the same was entered in the 'A' Diary maintained in the Court as well. On noticing the omission, I have already warned the staff members not to repeat such omissions and necessary updations have been done in the Case Information System Software."

4. In the light of the report as above, we are of the view that the dismissal of the restoration application has to be set aside, and it is restored. The Rent Control Appellate Authority shall consider the restoration application on its merits after hearing both sides.

5. Both the parties are directed to appear before the Rent Control Appellate Authority on 30.06.2025 at 10.30



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am.

6. The delivery already effected will be subject to the outcome of the proceedings now pending before the Rent Control Appellate Authority.

7. The execution proceedings shall be kept on hold till the conclusion of the proceedings before the Rent Control Appellate Authority.

This original petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE
JUDGE**

Sd/-

**JOHNSON JOHN
JUDGE**

PR

APPENDIX OF OP (RC) 93/2025

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE PETITION FILED BY THE RESPONDENT AS R.C.P NO.62/2019 ON THE FILE OF RENT CONTROL COURT, THIRUVANANTHAPURAM
- Exhibit P2 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN R.C.P NO.62/2019 ON THE FILE OF RENT CONTROL COURT, THIRUVANANTHAPURAM
- Exhibit P3 TRUE COPY OF THE ORDER DATED 22-07-2022 IN R.C.P NO.62/2019 ON THE FILE OF RENT CONTROL COURT, THIRUVANANTHAPURAM
- Exhibit P4 TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE PETITIONER IN R.C.A NO. 25/2022 BEFORE THE DISTRICT COURT THIRUVANANTHAPURAM
- Exhibit P5 TRUE COPY OF THE STAY PETITION AS I.A.NO.1/2022 IN R.C.A NO. 25/2022 BEFORE THE DISTRICT COURT THIRUVANANTHAPURAM
- Exhibit P6 TRUE COPY OF THE ORDER DATED 30-09-2024 IN R.C.A NO. 25/2022 ON THE FILE OF COURT OF ADDITIONAL RENT CONTROL APPELLATE AUTHORITY-V, THIRUVANANTHAPURAM
- Exhibit P7 TRUE COPY OF THE RESTORATION PETITION AS I.A NO. 3/2025 FILED BY THE PETITIONER IN R.C.A NO. 25/2022
- Exhibit P8 TRUE COPY OF THE DELAY CONDONATION PETITION AS I.A NO.4/2025 FILED BY THE PETITIONER IN R.C.A NO. 25/2022
- Exhibit P9 TRUE COPY OF THE PETITION AS E.P NO.409/2024 IN R.C.P NO. 62/2019 BEFORE THE MUNSIF COURT, THIRUVANANTHAPURAM
- Exhibit P10 TRUE COPY OF THE JUDGMENT DATED 10-02-2025 IN O.P (RC) NO. 38/2025
- Exhibit P11 TRUE COPY OF THE EA NO. 143/2025 IN E.P NO.409/2024 ON THE FILE OF MUNSIF COURT, THIRUVANANTHAPURAM
- Exhibit P12 TRUE COPY OF THE JUDGMENT DATED 06/03/2025 IN O.P(R.C)NO.62/2025



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**Exhibit P13 TRUE COPY OF THE I.A.NO.14/2025 IN
R.C.A NO.25/2022**

RESPONDENT EXHIBITS

**Exhibit R1 Advance Petition IA 3/2025 in RCA
25/2022 filed by the Petitioner before
the Additional Rent Control Appellate
Authority - V, Thiruvananthapuram**

**Exhibit R2 True copy of the proceedings in Ext. P7
application dated 25.01.2025,
03.03.2025, 06.03.2025 and 07.03.2025**