

(2024) 07 KL CK 0105

High Court Of Kerala

Case No: Writ Petition (C) No. 27126 Of 2024

Bharatheeya Jyothisha Vichara
Sangham

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: July 31, 2024

Hon'ble Judges: Anil K. Narendran, J; Harisankar V. Menon, J

Bench: Division Bench

Advocate: R.Krishna Raj, R.Pratheesh, E.S.Soni, Sreeraja V., Laxmi Priyaa N.P., S.Rajmohan,
Sr.G.P, G.Santhosh Kumar

Final Decision: Disposed Of

Judgement

Harisankar V. Menon, J

1. .The respondent in R.C.P.No.116 of 2023 before the Third Additional Munsiffâ€™s Court, Ernakulam, has filed this original petition under Article

227 of the Constitution of India, seeking stay of all further proceedings in E.P.No.28 of 2024 in R.C.P.No.116 of 2023 for a reasonable time, so as to

enable him to obtain the certified copies of the ex parte decree in R.C.P.No.116 of 2023 dated 29.11.2023 and the orders in Restro Petition No.234 of

2023 and I.A.No.1 of 2023 in R.C.P.No.116 of 2023.

2. The short facts necessary for the disposal of this original petition are as follows:

The petitioner is the tenant of a building owned by the respondent herein. The respondent instituted R.C.P.No.116 of 2023 before the Third Additional

Munsiffâ€™s Court, Ernakulam, for eviction under Section 11(3), 11(8) and 11(2)(b) of the Kerala Building (Lease and Rent Control) Act, 1965. The

trial court passed an ex parte eviction decree on 29.11.2023 on account of the non-appearance of the petitioner-tenant. The petitioner-tenant filed

Exts.P2 & P3 Restro Petition No.234 of 2023 and I.A.No.1 of 2023 to condone the delay of 6 days in filing the restoration petition, produced as

Exts.P2 and P3 in the original petition. The respondent-landlord had filed Ext.P4 counter to the petition for condonation of delay, filed as above. Apart

from filing E.P.No.28 of 2024 before the Principal Munsiff's Court, Ernakulam, for execution of the eviction order. It is stated that on 27.07.2024,

the trial court rejected the restoration petition and the petition for condonation of delay, however not issuing the certified copies. Petitioner, it is stated,

has applied for certified copies on 29.07.2024. The petitioner apprehends eviction on 01.08.2024 and it is in the above circumstances that the captioned

original petition is filed.

3. In the nature of the orders that we propose to pass in this original petition, service of notice to the respondent herein is dispensed with.

4. We have heard the learned counsel appearing for the petitioner and perused the connected records.

5. In the nature of the contentions raised, without going in to the merits of the matter, we dispose of this original petition with the following directions:

(i) The Third Additional Munsiff's Court, Ernakulam, is directed to issue certified copies of orders in Restro Petition No.234 of 2023 and I.A.No.1

of 2023 in R.C.P.No.116 of 2023, as expeditiously as possible, at any rate of within a period of two weeks.

(ii) All further proceedings pursuant to E.P.No.28 2024 in R.C.P.No.116 of 2023, before the Principal Munsiff's Court,

Ernakulam, would remain stayed for a period of four weeks.