

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V  
&  
THE HONOURABLE MR. JUSTICE T.R.RAVI  
THURSDAY, THE 23<sup>RD</sup> DAY OF SEPTEMBER 2021 / 1ST ASWINA, 1943  
RP NO. 383 OF 2021  
ORDER/JUDGMENT IN RCA 2/2013 OF I ADDITIONAL RENT CONTROL APPELLATE  
AUTHORITY, THIRUVANANTHAPURAM

**REVIEW PETITIONERS/REVISION PETITIONERS:**

- 1 CANARA BANK  
REPRESENTED BY ITS DEPUTY GENERAL MANAGER, DESI ROAD,  
BANGALORE, PIN - 560 002.
- 2 THE GENERAL MANAGER  
CANARA BANK, DESI ROAD, BANGALORE, PIN - 560 002.
- 3 DEPUTY GENERAL MANAGER  
CANARA BANK, DESI ROAD, BANGALORE, PIN 560 002.
- 4 THE MANAGER, CANARA BANK  
SPENCER JUNCTION, THIRUVANANTHAPURAM, PIN - 695001.  
  
BY ADVS.  
C.MURALIKRISHNAN (PAYYANUR)  
ABRAHAM GEORGE JACOB

**RESPONDENT/RESPONDENT:**

DEVA PROPERTIES LIMITED  
ANNA SAALI, CHENNAI, REPRESENTED BY ITS MANAGING DIRECTOR,  
K.VENUGOPALAN NAIR, ORIGINALLY KNOWN AND INCORPORATED AS  
M/S.SPENCER ESTATES LTD., CHENNAI - 600 002.  
  
BY ADVS.  
PRAVEEN K. JOY  
T.A.JOY  
E.S.SANEEJ  
M.P.UNNIKRISHNAN  
M.K.SAMYUKTHA  
N.ABHILASH  
M.R.ESHRATH BAI  
BEENA JOSEPH  
SREELEKHA. P  
DEEPU RAJAGOPAL  
SANDRA S.KUMAR  
SWAPNA C.P

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON  
23.09.2021, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**RAJA VIJAYARAGHAVAN V & T.R.RAVI, JJ**

-----  
**CM Appl.No.1 of 2021**

**&**

**R.P. No.383 of 2021**

**in**

**RCRev. No.154/2014**  
-----

**Dated this the 23rd day of September, 2021**

**ORDER**

This is an application to condone the delay of 1062 days in preferring the Review Petition.

2. We have heard Sri. Ramesh Babu, the learned senior counsel appearing for the petitioners as instructed by C.Muralikrishnan, the learned counsel and Sri. Praveen K.Joy, the learned counsel appearing for the respondent.

3. This litigation has a long drawn and chequered history. We are of the view that it would be appropriate to detail the sequence of events before assessing whether the applicant has made out a sufficient cause for condoning the delay of over 1000 days.

- a) The respondent herein is the landlord of a multistoried building that was leased out to the 1st applicant, a Nationalised Bank.
- b) In the year 2009, R.C.P.No.34/2009 was filed by the respondent seeking fixation of fair rent under Section 5 (1) of the Kerala Buildings (Lease and Rent Control) Act, 1965. By order dated 6.12.2012, the Rent Control Court after evaluating the facts and circumstances, fixed the fair rent at Rs 40/ per square feet.
- c) The above order was challenged in appeal and by judgment dated 18.2.2014, the order passed by the Rent Control Court was confirmed by the Appellate Authority.
- d) The applicant/tenant approached this Court and filed R.C.R. No. 154/2014. By order dated 3.4.2017, this Court, while confirming the findings of the Rent Control Court as well as the Appellate Authority, as regards the locus standi of the landlord to maintain a petition and also to get the rent-refixed, took the view that the matter required to be remanded back as it was felt that cogent materials were lacking before the Subordinate Courts to fix the rent at Rs 40/ as had been ordered.
- e) After remand as aforesaid, in addition to the evidence already adduced, additional documents were marked by both sides and a

witness was examined by the applicant. The Rent Control Court fixed the fair rent at Rs. 35/- per square feet with a biennial increase of 10%.

- f) The said order was challenged in Appeal and by judgment dated 22.7.2020 in R.C.A. No.11/2019, the order passed by the Rent Control Court was confirmed.
- g) The order was again taken up in Revision before this Court. By judgment dated 19.11.2020, the orders passed by the Subordinate Courts were upheld by the Division Bench finding that the Fair Rent fixed was reasonable, fair and in accordance with the law.
- h) A petition for Special Leave to Appeal as SLP No. 1540/2021 was preferred before the Apex Court. The petitioners sought leave to withdraw the Special Leave Petition to avail the remedy of review before this Court. Leave was granted to withdraw the petition and liberty was granted to the petitioners to approach the Apex Court if required.
- i) For reasons best known to the petitioners, they chose to file two Review Petitions. RP. No 381 of 2021 was filed seeking to review RCR 183/2020 and RP No 383/2021 was filed seeking to review the Order dated 3.4.2017 in RCR No 154/ 2014.

- j) The very same contentions are seen raised in both the Review Petitions.
- k) R.P. No.381/2021 was heard by the Division bench and by order dated 24.6.2021, the contentions raised by petitioners were repelled finding that the petitioners had failed to make out a case for review of the order. It was further held that apart from the lack of merit of the contentions advanced, there was also no error apparent on the face of the records warranting interference in review.
- l) The petitioners did not stop at that. They filed IA No. 3/2021 in R.P.No.381/2021 seeking to permit the petitioners to advance arguments on all the grounds raised in the Memorandum of Review. Their Lordships of the Division Bench after noting that the attempt is to indirectly seek review of the judgement in R.P.No.381/2021, dismissed the petition holding that review of the review order was not permissible.
- m) One would have thought that the pursuit of the petitioners to resuscitate the petitions by raking up untenable contentions would end at that. However, it was not to be. Reiterating the very same contentions that were repelled by the Division Bench while

considering R.P.No.381/2021, the petitioners are before this Court

4. Having heard the submissions of Sr Ramesh Babu, the learned Senior counsel appearing for the petitioners as instructed by Sri.C.Muralikrishnan and Sri.Praveen K.Joy, the learned counsel for the respondent, we find no reason to condone the delay or to entertain this Review Petition. We find that none of the contentions raised by the petitioners in the review petition was ever raised by the petitioners at the time of filing R.C.R. No.154/2014. The order of remand passed in the Revision Petition was pursued and the petitioners had adduced additional evidence before the Rent Control Court. The order passed by this Court has worked itself out. The order passed by the Rent Control Court after the remand was upheld by the Appellate Authority. The orders passed by the subordinate courts were challenged before this Court yet again by filing a Revision Petition. This Court had considered all the contentions raised by the petitioners and had refused to interfere. The SLP filed challenging the said order was withdrawn. Leave was sought to prefer review petition before this Court and for reasons best known to the applicants, they have ventured to prefer Review Petitions challenging orders passed by this Court at two stages of the litigation. They chose to pursue R.P.No.381/2021 and the Review petition was dismissed after considering the entire aspects.

Their attempt to seek review of the said order has also ended in dismissal. It appears to us that the petitioners are attempting a novel form of "Forum Shopping".

5. We have no doubt in our mind that this is a clear case of abuse of process of this Court. The petitioners have neither made out any case on merits nor have they given us a valid reason to condone the delay of over 1000 days. Though this is an eminently fit case for imposition of exemplary costs, in view of the fervent submissions of the learned counsel, we desist from doing so.

The application for condonation of delay will stand dismissed. Consequently, the unnumbered review petition will also stand dismissed.

Sd/-

**RAJA VIJAYARAGHAVAN V, JUDGE**

Sd/-

**T.R.RAVI, JUDGE**