

(1989) 02 KL CK 0078
In the High Court Of Kerala
Case No : C.R.P. No. 303 of 1989

N. Rajang

APPELLANT

Vs

Narayanan Nair

RESPONDENT

Date of Decision : 23-02-1989

Acts Referred:

Kerala Buildings (Lease and Rent Control) Act, 1965 — Section 12(6), 13, 13(6), 18, 18(1)(a)

Citation : (1989) 1 KLJ 626

Hon'ble Judges : K.G. Balakrishnan, J

Bench : Single Bench

Advocate : K.L. Narasimhan, for the Appellant; P. Sukumaran Nayar, for the Respondent

Final Decision : Dismissed

Judgement

K.G. Balakrishnan J.

1. The short point that arises for consideration is whether a revision lies to High Court u/s 20 of Building (Lease & Rent Control) Act (Act 2/1965, hereinafter referred to as "the Act") against an order passed by the District Collector u/s 13(6) of the Act. The facts in short are as follows:

The counter petitioner is the occupant of room number T.C. 26/1948. It is alleged that access to this room is only through door number T.C. 26/1949 and the counter petitioner without the consent and knowledge of the revision petitioner attempted to open a door on the southern wall of the room bearing No. T.C. 26/1948 in order to have direct access to this room from the nearby General Hospital road. This attempt was resisted by the landlord revision petitioner and there are pending civil litigations between the parties. While, so, the counter petitioner filed a petition before the Accommodation Controller, Trivandrum u/s 13 of the Act of 1965 alleging that the petitioner herein caused obstruction to the amenities enjoyed by the counter petitioner. The petition was allowed and the petitioner herein tiled appeal u/s 13(6) before the District Collector. The District

Collector dismissed the appeal and the present revision is directed against that order.

2. The learned counsel for the revision petitioner contended that a revision filed u/s 20 of the Act is not maintainable. It has been pointed out that the revision contemplated u/s 20 of the Act is only a revision against the order of the Appellate Authority and the District Collector, not being an Appellate Authority, no revision has under this Section. Section 20 reads as follows:

Revision.-(1) In cases where the appellate authority empowered u/s 18 is a Subordinate Judge, the District Court, and in other cases the High Court, may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference there-to as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under sub-section (1) shall be in its discretion".

Learned counsel for the revision petitioner attempted to interpret this Section 20 in such a way that when an order is passed by any authority other than the Subordinate Judge, the revision lies to the High Court. In order to understand the scope of Section 20 of the Act, it is necessary to read Section 18 of the Act. Section 18 (1) (a) says that the Government may, by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of 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. The powers of the Appellate Authority has also been explained in Section 18 of the Act. The order passed by the Rent Control Court alone is made appealable u/s 18 of the Act. Whereas the original impugned order is passed by the Accommodation Controller u/s 13 of the Act and that the appeal is provided u/s 13(6). The District Collector deals with such appeal not in his capacity as the Appellate Authority but by virtue of the powers conferred on him u/s 12 (6) of the Act. A revision u/s 20 of The Act will lie only against the order of an Appellate Authority. If the Appellate Authority so designated is the Subordinate Judge, the revision will lie to the District Court and in other cases in the High Court. If in any case, Government of Kerala confers powers of the Appellate Authority on the District Court or any other courts, the revision will lie to the High Court. In the instant case, the impugned order is passed by the District Collector, which is only an appellate forum, as empowered u/s 13(6) of the Act and not an appellate authority and therefore the Civil Revision Petition is not maintainable.

The C.R.P is dismissed.