

(1997) 08 KL CK 0052
In the High Court Of Kerala
Case No : O.P. No. 13599 of 1997

Ramanath Haneefa

APPELLANT

Vs

Hamsa

RESPONDENT

Date of Decision : 06-08-1997

Acts Referred:

Kerala Buildings (Lease and Rent Control) Act, 1965 — Section 23(1)(j)

Citation : (1997) 2 KLJ 197

Hon'ble Judges : K.A. Abdul Gafoor, J

Bench : Single Bench

Advocate : A.K. Chinnan and K.K. Geetha, for the Appellant; K. Reghu (Govt. Pleader), for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor, J.—The petitioners have approached this Court challenging Ext.P5. That is an Interlocutory Order passed by the second respondent upon an application by the first respondent who is the petitioner-landlord in the Rent Control Proceedings before the second respondent. The first respondent sought for amendment of his petition. Ext.P3 is that petition. That was allowed by Ext.P5. I see no reason to interfere with Ext.P5. It is only an Interlocutory Order permitting amendment as prayed for in Ext.P3 which is not at all of any consequences with reference to the cause of action urged or the limitation if any. Even if there is any illegality in Ext.P5, the petitioner will have an opportunity to agitate against Ext.P5, in case the order of the Rent Controller is against the petitioner and in case the petitioner files appeal there from. The petitioners contend, placing reliance on Sec. 23(1)(j) that the power conferred on the Rent Controller to effect the amendment is only to cure any defect or error in orders or proceedings and that the Rent Control Court has no power to allow amendment to the pleadings. That cannot be said to be correct. Due to inadvertence, if there creeps in some mistake in the petition by the landlord or in the objection filed by a tenant, it cannot be said that, that mistake shall be

allowed to perpetuate. There shall always be an inherent power to any Tribunal or Court to make such amendment in tune with the cause of action alleged or with the law on limitation. The Trial Court or the Tribunal can exercise its discretion to allow an amendment as the one prayed for in Ext.P3. Therefore there is no reason to quash Ext.P5.

Original Petition fails and is dismissed.