

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.3299 of 2005

-

ORDER:

This revision is preferred challenging order dated 17.03.2005 in R.A.No.406 of 2001 on the file of Chief Judge, City Small Causes Court, Hyderabad, whereunder the Principal Rent Controller i.e., appellate authority under A.P. Buildings (Lease, Rent & Eviction) Control Act (for short "the Rent Control Act"), Secunderabad modified the order of the trial Court by fixing the fair rent @ Rs.2,100/- per month from August, 2001 by setting aside the order of the Rent Controller, who fixed the fair rent @ Rs.3,000/- per month.

2. Brief facts leading to this revision are as follows:

The landlady approached Rent Controller invoking Section 4 of the Rent Control Act to fix fair rent @ Rs.5,000/- per month, which is resisted by the tenant, and on enquiry, after examining witnesses and marking documents, Rent Controller fixed a sum of Rs.3,000/- as fair rent commencing from August, 2001 payable in September, 2001 and partly allowed the application. Aggrieved by the said order, tenant preferred appeal to the appellate authority under Rent Control Act. Learned appellate authority on a reappraisal of the evidence, modified the fair rent fixed by the Rent Controller by reducing it from Rs.3,000/- to Rs.2,100/- per month. Aggrieved by the same, tenant preferred present revision.

3. Heard both sides.

4. Advocate for petitioner submitted that both the Courts erred in fixing fair rent though there is no such existing rental value in the locality as the shop is in a sub-lane and there is no water facility. He submitted that quantum of fair rent fixed by the appellate authority is high and almost 20 times of the existing rent of Rs.125/- per month. He submitted that the appellate authority ought to have reduced further, the rent fixed by the Rent Controller by taking the location of the shop, amenities and age of the building, and as the appellate

authority committed error, the same has to be corrected.

5. On the other hand advocate for landlord opposed the revision and submitted that even Rs.2,100/- fixed by the appellate authority is very low, compared to the existing rental value. She submitted that landlady in fact claimed rent of Rs.5,000/- per month, but the Rent Controller only granted Rs.3,000/- and it was reduced by the appellate authority to Rs.2,100/-, and contended that though no cross appeal is filed, the landlady can argue questioning the quantum. She further submitted that as the appellate authority fixed this Rs.2,100/- per month about 10 years back and as by taking judicial notice to the present rental value, this Court can enhance the rent fixed by the appellate authority.

6. Now the point that would arise for my consideration is :

“Whether the order of appellate authority is legal, correct and proper?”

POINT:

7. Though initially there is a dispute with regard to relationship of landlord and tenant, now that dispute is resolved in view of the concurrent findings of both Courts. Now only dispute is with regard to quantum fixed by the appellate authority. On behalf of landlady, two witnesses are examined and 2 documents are marked, whereas, on behalf of tenant, one witness is examined. The existing rent as on the date of filing of petition to fix fair rent was Rs.125/-. The schedule premises is a non-residential building and from the evidence, it is clear that it is in a sub-lane and it is not having amenities, which the other buildings referred to by landlady were having. After discussing elaborately evidence of both parties and also considering the fact that the premises is in a sub-lane, which was not taken into consideration by the Rent Controller, the appellate authority reduced the fair rent from Rs.3,000/- to Rs.2,100/- per month. Admittedly, the landlady has not produced any record from the Municipal Corporation to prove the rental value in the locality on the basis of which GHMC collected property tax and only on the basis of oral evidence, she claimed enhancement of rent from Rs.125/- to Rs.5,000/-. Learned appellate authority also considered the fact that there is no water facility provided to the schedule premises, taking these aspects into consideration, appellate authority

fixed Rs.2,100/- per month, which is nearly 20 times to the existing rent. I do not find any wrong appreciation of evidence by the appellate authority with reference to the amenities and location of the building, which was considered in fixing fair rent by reducing it from Rs.3,000/- to Rs.2,100/-. No doubt, this was fixed in the year 2005 directing the tenant to pay rent from the month of August, 2001 and admittedly no other application is filed by the landlady for further enhancement nor any cross-objections disputing the reduction of quantum from Rs.3,000/- to Rs.2,100/-, therefore the contention of landlady that present rental value has to be taken judicial notice to enhance the rent as fixed by the appellate authority cannot be accepted.

8. For these reasons, I am of the view that there are no grounds to interfere with the findings of the appellate authority and that revision is devoid of merits.

9 . Accordingly, the Civil Revision Petition is dismissed. Revision petitioner is granted three (03) months time to pay difference of arrears amount to the third respondent. No costs. Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

S. RAVI KUMAR, J

Date: 15-04-2015.

gvl