

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.1526 of 2015

Date: 14-12-2015

Between:

Dandoo Praveen Kumar

.... Petitioner

AND

Ram Kishore Modani

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.1526 of 2014

ORDER:

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The petitioner is the landlord in respect of premises admeasuring 175 SFT facing M.G. Road forming part and parcel of property bearing Municipal No.2-1-125 to 2-1-128 (Old No.71), situated at M.G. Road, Secunderabad. He filed R.C.No.187 of 2010 before the Principal Rent Controller, Secunderabad, under Section 4 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 seeking to fix fair rent at Rs.15,000/- per month in respect of the petition schedule property from the date of petition exclusive of property taxes and electricity charges.

Before the Tribunal, PWs.1 and 2 were examined and Exs.P.1 and P.2, besides Exs.X.1 to X.5 were marked. PW.1 is the owner and PW.2 is the tenant. Ex.P.1 is the true copy of the lease deed dated 09-09-2004 and Ex.P.2 is the market value certificate dated 13-12-2010. As per Ex.P.1 registered lease deed dated 09-09-

2004, the rent was fixed for the schedule property at Rs.2,200/- per month for three years, and Rs.2,530/- from 01-04-2007 to 31-03-2010. Thus, the said rent was agreed in the year 2004. Considering the evidence on record, the Principal Rent Controller fixed the monthly rent at Rs.3,000/- per month keeping in view the location, access to the main road and the vast increase in the municipal area. Accordingly, it fixed a fair rent at Rs.3,000/- per month with 10% enhancement on the existing rate of rent for every two years by its order dated 24-08-2012. Challenging the same, the tenant filed R.A.No.196 of 2012 and the petitioner-landlord filed cross-objections in S.R.No.2297 of 2012. The Appellate authority-cum-Additional Chief Judge, City Small Causes Court, Hyderabad by its order dated 30-08-2013 fixed the fair rent at Rs.2,780/- per month from the date of filing of the petition before the Rent Controller with 10% enhancement for three years, basing on a decision of the Supreme Court reported in **Mohammed Ahmed and another v. Atma Ram Chauhan and others** (2011 (7) SCC 755).

Learned counsel for the revision petitioner submits that the present property tax for the said premises bearing Municipal No.2-1-125 to 2-1-128 (Old No.71), situated at M.G. Road, Secunderabad is Rs.20,470/- per year and the other tenants are paying varying amounts at Rs.3,300/- to Rs.4,300/- in respect of small shops and the rent fixed by the Appellate Authority is not proper.

In spite of service of notices, none appeared for the respondent herein.

The admitted facts are that the lease deed was executed on 09-09-2004 fixing a rent of Rs.2,200/- per month for three years and it was agreed to be enhanced from Rs.2,200/- to Rs.2,530/- per

month for three years. So, the agreed enhancement was 15% for three years. If that principle is applied to the fixation of fair rent at the time of filing of the petition, the fixation of the fair rent at Rs.3000/- per month by the Rent Controller by its order dated 24-08-2012 is sustainable. This is based on the agreement of the parties at the time of entering into lease deed dated 09-09-2004 that the subsequent enhancement of the rent was 15% during the next three years of the lease period. But, the Rent Controller fixed 10% enhancement for two years, whereas the Appellate Authority fixed 10% enhancement on the existing rent for every three years.

In the circumstances, the fair rent for the premises is fixed at Rs.3,000/- per month as fixed by the Additional Rent Controller as on the date of filing of the petition before him with 15% enhancement for every three years.

Accordingly, the Civil Revision Petition is partly allowed. No costs.

A. RAMALINGESWARA RAO, J

Date: 14-12-2015

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