

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

**C.R.P.(NPD).Nos.1469 & 1470 of 2012
and M.P.Nos.1 & 1 of 2012**

Export Credit Guarantee Corporation of India Ltd.,
having its Regional Office at No.770-A,
Anna Salai, Chennai - 600 002. ... Petitioner in both C.R.Ps

Vs.

Dewa Properties Ltd.,
(Formerly Spencer Estates Ltd.)
No.769, Anna Salai,
Chennai - 600 002. ... Respondent in both C.R.Ps

Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 (as amended by Act 23 of 1973 & Act 1 of 1980) against the common judgment dated 21.10.2011 in R.C.A.Nos.1372 of 2004 & 610 of 2005 on the file of the VIII Small Causes Court Judge, Chennai enhancing the rent fixed by the Rent Controller by order dated 20.08.2004 passed in R.C.O.P.No.1112 of 2001 on the file of XI Judge, Small Causes Court, Chennai.

For Petitioner : Mr.S.Krishna Srinivas
(in both CRPs) for M/s.S.Ramasubramaniam and Associates

For Respondent : Mr.M.S.Krishnan, Senior Counsel
(in both CRPs) Mr.Roshan Balasubramanian

COMMON ORDER

C.R.P.(NPD).No.1469 of 2012 arises against the judgment and decree passed in R.C.A.No.1372 of 2004 on the file of the VIII Judge, Court of Small Causes, Chennai modifying the order passed in R.C.O.P.No.1112 of 2001 on the file of the XI Judge, Court of Small Causes, Chennai. C.R.P.(NPD). No.1470 of 2012 arises against the judgment and decree passed in R.C.A.No.610 of 2005 on the file of the VIII Judge, Court of Small Causes, Chennai modifying the order passed in R.C.O.P.No.1112 of 2001 on the file of the XI Judge, Court of Small Causes, Chennai.

2.The respondent/landlord filed R.C.O.P.No.1112 of 2001 for fixation of fair rent.

3.It is not in dispute that the petitioner is in occupation of an extent of 7063 sq.ft. in the 7th floor of the building. The respondent/landlord claimed a sum of Rs.1,51,718/- as fair rent.

4.On the side of the petitioner/tenant, though six documents were marked, no oral evidence was let in by them. On the side of the respondent/landlord, three witnesses were examined and 26 documents,

Exs.P1 to P26 were marked.

5.The Rent Controller, taking into consideration the oral and documentary evidences of both parties, fixed the fair rent at Rs.61,386/-. Aggrieved over the fixation of fair rent, the landlord preferred an appeal in R.C.A.No.610 of 2005 and the tenant preferred an appeal in R.C.A.No.1372 of 2004 on the file of the VIII Judge, Court of Small Causes, Chennai. The Rent Control Appellate Authority, by its common judgment, dismissed the R.C.A.No.1372 of 2004 filed by the tenant and allowed the appeal in R.C.A.No.610 of 2005 preferred by the landlord and directed the tenant to pay the fair rent at the rate of Rs.1,38,568/- per month from the date of filing of the R.C.O.P. till March 2002 and fair rent of Rs.1,64,648/- per month from April 2002 to March 2003 and fair rent of Rs.1,76,477/- from April 2003 to July 2007 and fair rent of Rs.3,00,490/- per month for the period from August 2007 to till date.

6.At the outset itself, it could be seen that the order passed by the Rent Control Appellate Authority is liable to be modified for the reason that different fair rents cannot be fixed for different periods from the date of filing of the R.C.O.P. The fair rent should be fixed from the date of filing of the Original Petition and it cannot be fixed on slab basis. Though a sum of

Rs.1,51,718/- was claimed by the respondent/landlord, the Rent Control Appellate Authority had fixed a sum of Rs.1,38,568/- from the date of filing of the R.C.O.P. to March 2002 based on Exs.P14 & P16 Sale Deeds. The Rent Control Appellate Authority fixed the value of land at Rs.4,167/- per sq.ft. and the value of the building at Rs.23,38,538/-. The value of the land and building comes to Rs.1,35,85,109.78p. The plinth area occupied by the tenant is 7,073 sq.ft. The proportionate share of the land in occupation of the land in occupation of the tenant is 2,698.96 sq.ft. Therefore, the total value of the premises was taken as Rs.1,38,56,811.97p by the Rent Control Appellate Authority and the monthly fair rent comes to Rs.1,38,568/-. The fixation of fair rent at Rs.1,38,568/- by the Rent Control Appellate Authority is just and proper. However, the Appellate Authority should not have increased the fair rent for the subsequent period.

7.Mr.M.S.Krishnan, learned senior counsel appearing for the respondent/landlord submitted that the respondent/landlord is agreeable to receive a sum of Rs.1,38,568/- as fair rent from the date of filing of R.C.O.P.

8.Mr.Krishna Srinivas, learned counsel appearing for the petitioner/tenant also submitted that the tenant is willing to pay the sum of

Rs.1,38,568/- as fair rent from the date of filing of the Original Petition. Since the Rent Control Appellate Authority has rightly fixed the fair rent at Rs.1,38,568/-, I confirm the same, however, set aside the other aspects of the order passed by the Rent Control Appellate Authority. Therefore, the fair rent for the petition premises shall be Rs.1,38,568/- from the date of filing of R.C.O.P. The other portion of the decree passed by the Rent Control Appellate Authority stands set aside.

9. With this modification, both the Civil Revision Petitions are partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
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28.01.2016

To

1. The VIII Judge,
Small Causes Court,
Chennai.

2. The XI Judge,
Small Causes Court,
Chennai.

M.DURAI SWAMY,J.
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