

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.419 of 2016

State Bank of Mysore
rep by its Branch Manager
New No.13/7A,
Landons Road, Kilpauk,
Chennai - 600 010.

... Petitioner

Vs.

1.Abubacker
2.Naseema Siddiq
3.Shanthilal Jain
4.Shanthosh Devi Jain
5.Manoj Kumar Jain
6.Saroj Mootha

... Respondents

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decree order dated 03.11.2014 made in R.C.A.No.472 of 2013 on the file of the VII Judge, Court of Small Causes, Chennai, confirming the order and decree dated 28.06.2013 passed in R.C.O.P.No.509 of 2007 on the file of the XI Judge (Rent Controller), Court of Small Causes, Chennai.

For Petitioner : Mr.S.Sethuraman

For Respondents : Mr.K.Harishankar

ORDER

Challenging the judgment and decree passed in R.C.A.No.472 of 2013 on the file of the VII Judge, Court of Small Causes, Chennai, confirming the order passed in R.C.O.P.No.509 of 2007 on the file of the XI Judge (Rent Controller), Court of Small Causes, Chennai, the tenant has filed the above Civil Revision Petition.

2.The respondents 1 & 2 filed R.C.O.P.No.509 of 2007 for fixation of fair rent.

3.According to the landlords, the agreed monthly rent was Rs.20,500/- and in the Rent Control Original Petition, they sought to fix the fair rent of Rs.1,48,333/- per month from June 2006. After the filing of the Rent Control Original Petition, the respondents 1 & 2 sold the petition property to the respondents 3 to 6 under a Registered Sale Deed dated 16.07.2008. In the counter filed before the Rent Controller, the tenant has stated that the claim of Rs.1,48,333/- was on the higher side and therefore, the petition is liable to be dismissed.

4.Before the Rent Controller, on the side of the landlords, 3 witnesses were examined and 8 documents, Exs.P1 to P8 were marked. On

the side of the tenant, 2 witnesses were examined and 5 documents, Exs.R1 to R5 were marked.

5.The Rent Controller, taking into consideration the case of both parties, fixed the fair rent at Rs.1,14,873/- per month payable by the tenant/Bank from the date of petition (i.e.) 12.03.2007. The Rent Controller fixed the fair rent by its order dated 28.06.2013. During the pendency of the Rent Control Original Petition, the subsequent purchasers viz., respondents 3 to 6 herein got themselves impleaded in the proceedings on 18.06.2010. Aggrieved over the fixation of fair rent by the Rent Controller, the tenant have preferred an appeal in R.C.A.No.472 of 2013 and the Rent Control Appellate Authority also confirmed the order passed by the Rent Controller and dismissed the appeal. Aggrieved over the same, the tenant/Bank have filed the above Civil Revision Petition.

6.Heard Mr.S.Sethuraman, learned counsel appearing for the petitioner and Mr.K.Harishankar, learned counsel appearing for the respondents.

7.Mr.S.Sethuraman, learned counsel appearing for the revision petitioner submitted that the petitioner is not disputing the fixation of fair

rent and that the only dispute that arises for consideration in this Civil Revision Petition is that whether the respondents 3 to 6 are entitled to claim fair rent from 16.07.2008 till 18.06.2010 or not? The learned counsel submitted that the respondents 3 to 6, having purchased the property on 16.07.2008, chose to file an impleading application before the Rent Controller only on 18.06.2010, therefore, the respondents 3 to 6 are not entitled to claim fair rent for the said period. The Rent Controller, while fixing the fair rent, also found that the respondents 1 & 2, who are the vendors of the respondents 3 to 6, are entitled to claim fair rent upto the period 16.07.2008 and that the respondents 3 to 6 are entitled to claim fair rent from 16.07.2008.

8. Since the quantum of fair rent fixed by the Courts below are not in dispute, I am not adverting to the said issue in this Civil Revision Petition. When the petitioner is contending that the vendors of the respondents 3 to 6 are entitled to claim fair rent till 16.07.2008, the fixation of fair rent by the Courts below cannot be suspended for the next two years (i.e.) till 18.06.2010. When the fair rent was fixed in respect of the petition premises, there are no change in circumstances after the purchase made by the respondents 3 to 6. When there is no dispute that the respondents 1 & 2 are entitled to fair rent till 16.07.2008 as already stated, the said fair rent

fixed by the Courts below cannot be suspended for the period upto 18.06.2010 (i.e.) the date on which the respondents 3 to 6 have filed an application to get themselves impleaded in the Rent Control Original Petition. After the purchase made by the respondents 3 to 6 on 16.07.2008, they have stepped into the shoes of their vendors viz., the respondents 1 & 2. Since the property was sold on 16.07.2008, the respondents 1 & 2 are entitled to the fair rent upto 16.07.2008, thereafter, the subsequent purchasers, viz., the respondents 3 to 6 are entitled to claim fair rent from the date of their purchase. The revision petitioner, who is the tenant, cannot take advantage of the alienation made by the respondents 1 & 2 and contend that the subsequent purchasers are not entitled to claim fair rent from the date of their purchase and they can claim fair rent only from the date of filing of the impleading application. When the fair rent was fixed in respect of the petition premises, the contention raised by the learned counsel appearing for the petitioner cannot be accepted. The Courts below have rightly found that the respondents 1 & 2 are entitled to fair rent till the date of purchase made by the respondents 3 to 6 and thereafter, the respondents 3 to 6 are entitled to claim the fair rent.

9. In these circumstances, I do not find any error or irregularity in the order passed by the Courts below. The Civil Revision Petition is devoid of

merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs.

Index : No
Internet : Yes
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20.07.2016

To

- 1.The VII Judge,
Court of Small Causes,
Chennai.
- 2.The XI Judge (Rent Controller),
Court of Small Causes,
Chennai.

M.DURAIWAMY,J.
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