

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.1564 OF 2011

ORDER:

The Civil Revision Petition is filed against the judgment dated 24.03.2011 passed in R.A. No.119 of 2010 on the file of learned Chief Judge, City small Causes Court, Hyderabad.

2) The revision petitioner is the respondent—tenant in R.C. No.456 of 2007 and appellant in R.A. No.119 of 2010. The premises in question with D.No.3-5-484 of Vittalwadi, Narayanguda, Hyderabad appears to be 70 years old building and it consists of two rooms; one of which is front room with jack arch construction and rear portion is of zinc sheet and walls are with mud construction. The appellant entered into agreement as a tenant under the original owner B.Kamala Bai and after her death, respondent herein filed R.C.No.456 of 2007. The landlord and his brother were successors being the legal heirs and he claimed that he was paying rent to the present R.C applicant's brother and after the property claimed fallen to the share of R.C applicant, the R.C applicant collecting rents from him regularly and made a deposit or putting by money order saying the original rent was Rs.13/- and subsequently the rent was enhanced to Rs.100/- per month.

3) The landlord filed an application in R.C. No.456 of 2007 for fixation of fair rent claiming that as the schedule premises consisting of two rooms and out of which the front room is jack arch construction and rear portion is of Zinc sheet; front room is for commercial purpose and rear side portion is for residential purpose and the said premises situated at

Narayanaguda, which is centrally located and the other landlords getting minimum rent of Rs.5,000/- per month, thereby fair rent may be fixed at Rs.5,000/- per month.

4) The tenant as respondent to the R.C questioned on maintainability under Section 4 and 5 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act') and also contended that there is neither railway station nor bus-station near the premises and most of the occupants of that area are from lower middle class status and not even a posh commercial area and thereby, there is nothing to interfere over and above what the rent is paying much less at Rs.5,000/- per month, for the building of 100 years old.

5) Considering the pleadings and after hearing both parties by detailed order with reference to evidence on record let in of PW.1 coupled with Exs.A1 to A3, which are notice reply and market value certificate of the area from the Sub-Registrar concerned, and from the evidence of RW.1 with reference to Ex.R1—down load property tax details and of PW.2 regarding property value covered by Exs.X1 to Ex.X4, the Tribunal held that Rs.4,158/- per month is a reasonable fair rent, taking into consideration of the rental value prevailing in the locality for similar premises from the evidence on record, as it is consisting of 297 Sq.ft of land and adjacent building owner—PW.2 also deposed that his father is getting Rs.4,000/- per month at Rs.14/- per Sq.ft at nearby to the schedule premises.

6) As the R.C is allowed accordingly, by enhancing the rent from Rs.100/- per month to Rs.4,158/- at Rs.14/- per Sq.ft

(297 Sq.ft X Rs.14 = Rs.4,158/- per month) in respect of the petition schedule mulgi and also further enhancement at 10% prospective increase for every two years, vide order dated 02.12.2009. Impugning the same, the revision petitioner herein preferred an appeal vide R.A. No.119 of 2010. The appellate Tribunal, after hearing both sides observed that even PW.1 admitted that the schedule premises was constructed about 70 years back and there are only wooden doors and the 1st room is covered with Madras Terrace and there is no RTC bus route in front of the schedule premises, apart from no parking facility in front of the said mulgi and that the walls are constructed with bricks and lime and that the premises consists of two rooms and front room is being used for laundry (covered by Madras Terrace) and the other for residential use, the rent fixed by Rent Controller is reduced from Rs.4,158/- to Rs.3,000/- per month and that the respondent/ petitioner is entitled to recover the rent @ Rs.3,000/- pr month from the date of filing of Rent Control Petition and with enhancement of the rent @10% on the existing rent for every two years with effect from 2007.

7) Impugning the same, the tenant maintained the present revision. Heard both sides and perused the material on record including the expressions placed reliance.

8) As per the decision reported in ***Ratan Arya vs State of Tamil Nadu***¹ Judicial notice can be taken by the Court that there is enormous manifold increase of rents throughout the country more particularly in urban areas.

¹ AIR 1986 SC 1444

9) Undisputedly, the premises in question is of Greater Hyderabad Municipal Corporation. It is very near to the posh area and partly in commercial use and partly in residential use with multipurpose. Thereby what the Appellate Tribunal fixed at Rs.3,000/- by reducing from Rs.4,158/- per month by retaining prospective increase of 10% for every two years no ay requires interference when evidence on record discloses neighbours getting rentals more than that, but for age of the premises with lessor amenities in so arriving. Coming to the contention of Courts have no power to fix percentage on rent formula prospective increase the law laid down in **Somaraju Chinnammi vs Samanthu Sivaji Ganesh and another²** and **Jupudi Parthasarathy vs Kondapalli Rajeswari and others³** is very clear of fair rent fixation does not mean static fixation of the amount for ever, that too, despite a rider under Section 5 of the Act that once fair rent is fixed, but for any proportionate development shown, any further fair rent is not maintainable, thereby it is not impossible to visualize the prospective increase in rental value as it could fetch from time to time for fixing prospective enhancement in rental values.

10) Thus, for this Court while sitting in revision, there is nothing to interfere with the impugned order of the lower appellate Court.

11) Accordingly and in the result, the revision petition is dismissed. No order as to costs.

² 2008 (6) ALT 215

³ 2008 (6) ALD 398

12) Consequently, pending miscellaneous petitions, if any,
shall stand dismissed.

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.08.08.2016
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