

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2284 OF 2016

ORDER:

This revision is filed under Section 22 of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short, hereinafter referred to as "the Act") challenging the fixation of fair rent at Rs.4,920/- per month from the date of the petition for the premises bearing Door No.4-5-421 and 422 alleging that the rent agreed to be paid is Rs.1,829/- per month by the date of filing the petition and whereas the premises is situated in the down town, which is in an extent of 246 sq. feet mulgi put to commercial use with all facilities surrounded by commercial complexes.

The respondent/tenant denied the right of the petitioners/landlords before the Rent Controller to claim fixation of fair rent at Rs.12,500/- per month since it exceeds the jurisdictional limits prescribed under Act and the rent cannot be fixed by violating the provisions of Section 4 (2) of the Act.

The trial Court fixed fair rent at Rs.7,380/- per month from the date of petition. But however, it was reduced in appeal to Rs.4,920/- per month with further enhancement at 10% for every two years.

The present revision is filed under Section 22 of the Act on the ground that the Court shall not fix the rent beyond its

jurisdiction and the enhanced rate of rent ousts the jurisdiction of Rent Controller.

Sri Atikam Srinivas Goud, learned counsel for the petitioner, contended that the fair rent fixed by the appellate Court is excessive and exorbitant.

Sri Aadesh Varma, learned counsel for the respondents, contended that the Section 4, Sub-sections (2), (3) and (4) of the Act were struck down by the Division Bench of this Court in “**Suresh Gir v. K.Sahadev**¹”. Therefore, the procedure contemplated under Section 4 (2), (3) and (4) of the Act need not be followed and the Rent Controller can fix rent exceeding its jurisdiction.

Undoubtedly, there is a restriction in Section 4 (2) of the Act for fixing the fair rent. According to Section 4 (2) of the Act for fixing the fair rent under this Section, the Controller shall have due regard,

- (a) to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 5th April, 1944;
- (b) to the rental value as entered in the property tax assessment book of the concerned local authority relating to the period mentioned in clause (a);
- (c) to the circumstances of the case, including any amount paid by the tenant by way of premium or any other like sum in addition to rent after the 5th April, 1944.

¹ 1998 (1) ALD 25 (DB)

But in view of striking down the procedure by Division Bench of this Court “**Suresh Gir v. K.Sahadev**” (*referred supra*) the procedure contemplated under Section 4 (2) (3) and (4) of the Act need not be followed and the Rent Controller can fix fair rent. Therefore, on the ground that the Rent Controller cannot fix the fair rent without following the procedure prescribed under Section 4 (2) (3) (4) of the Act, the revision cannot be allowed setting the order under challenge at naught.

The other contention raised before this Court is that the Rent Controller cannot fix fair rent beyond its jurisdictional limits.

There is no fetter under Section 4 of the Act to fix fair rent more than the jurisdictional limits of Rent Controller and at best the Court required to consider the nature of building, type of construction and the use to which it is put to, the amenities provided to the building and prevailing rate of rent in the locality while fixing fair rent. Here, both the Rent Controller and the appellate authority considered the relevant factors for fixing fair rent and the order under challenge does not suffer from any illegality and therefore, the order is liable to be confirmed.

In the result, the revision is dismissed confirming the order dated 03.03.2016 passed in R.A.No.18 of 2015 by the Additional Chief Judge, City Small Causes Court, Hyderabad fixing the fair rent at Rs.4,920/- per month along with further

enhancement at 10% for every two years on the existing rent from the date of petition till delivery of vacant possession. No order as to costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.08.2016
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