

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2017

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P.(NPD).Nos.3000 & 4632 of 2014

Date of Reserving the Judgment	Date of Pronouncing the Judgment
02.01.2017	04.01.2017

C.R.P.(NPD).No.3000/2014

Mrs.Suryabai

W/o.M.Chothmull

.. Petitioner/Respondent/Respondent/Tenant

-Vs.-

S.Thirunavukarasu

S/o.C.K.Samarapuri Chettiar

.. Respondent/Appellant/Petitioner/Landlord

Prayer:

Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the decree and judgment of the learned VII Judge, Court of Small Causes at Chennai, dated 21.01.2014 in R.C.A.No.770 of 2012 modifying the decree and order in R.C.O.P.No.1462 of 2011 on the file of the learned XVI Judge, Court of Small Causes, dated 16.10.2012.

For Petitioner : Mr.P.K.Sivasubramaniam

For Respondent : Mr.Suresh Sampath

C.R.P.(NPD).No.4632/2014

S.Thirunavukarasu
S/o.C.K.Samarapuri Chettiar .. Petitioner/Appellant/Petitioner/Landlord

-Vs.-

Mrs.Suryabai
W/o.M.Chothmull .. Respondent/Respondent/Respondent/Tenant

Prayer:

Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decreetal order dated 21.01.2014 passed in R.C.A.No.770 of 2012 on the file of the learned VII Judge, Small Causes Court, Chennai varying the order fixing fair rent by order and decreetal order in R.C.O.P.No.1462 of 2011, dated 16.10.2012 on the file of the learned XVI Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.Suresh Sampath

For Respondent : Mr.P.K.Sivasubramaniam

COMMON ORDER

Challenging the fair and decreetal order passed by the learned Rent Control Appellate Authority dated 21.01.2014 in R.C.A.No.770 of 2012, the tenant had preferred the C.R.P.(NPD).No.3000/2014 and the landlord had preferred the C.R.P.(NPD).No.4632/2014. For the sake of convenience, the

parties are referred to as the landlord and the tenant.

2.The landlord had preferred a petition in R.C.O.P.NO.1462/2011 for fixation of fair rent under Section 14 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as amended by Act 23 of 1973 [herein after called as the 'Act']. Originally, the landlord and the tenant had entered into a rental agreement fixing the contractual rent at Rs.5,200/- and thereafter, the landlord had filed the RCOP proceeding to fix the fair rent at Rs.24,000/- per month. The respondent/tenant filed a detailed counter. The learned Rent Controller, after hearing both sides had fixed the rent at Rs.9,752/- rounded off to Rs.9,750/- per month, as against which the landlord/petitioner filed R.C.A.No.770/2012 before the learned Rent Control Appellate Authority who fixed the rent at Rs.19,485/- per month. Aggrieved, against the said order passed by the learned Rent Control Appellate Authority, the present Civil Revision Petitions have been filed by the landlord and the tenant.

3.The learned counsel appearing for the tenant would submit that the learned Rent Control Appellate Authority has not given sufficient reasoning for enhancing the rent from Rs.9,750/- per month to Rs.19,485/- per month. The learned Rent Control Appellate Authority ought to have adopted the land value of the ground at Rs.17,32,000/- per ground. But he had adopted Rs.50,00,000/- per ground, which is on the higher side. Hence, the learned counsel for the

tenant prayed to restore the fair rent fixed by the learned Rent Controller.

4. On the other hand, the learned counsel appearing for the landlord would submit that his only grievance is the land value has not been correctly considered by the learned Rent Controller as well as the learned Rent Control Appellate Authority. The tenant who was examined as R.W.1 himself had admitted that the value is Rs.48,00,000/- per ground. However, while calculating the plinth area, it has been wrongly calculated as 737.37 sq.ft. Since the total extent of the building is 1560 sq.ft and the building is G + 1, the plinth area had to be calculated as 780 sq.ft. Hence, the land value which is arrived at Rs.15,36,188/- had to be modified as Rs.15,60,000/-. Thus, the learned counsel for the landlord prays for modification.

5. Considered the rival submissions made by both sides and perused the typed set of papers.

6. Now this Court has to decide whether the fair rent fixed by the learned Rent Control Appellate Authority is correct?

The only grievance of both the landlord and the tenant is that the land value has not been correctly fixed. But even as per the evidence of the tenant, who was examined as R.W.1, the value of the land is Rs.48,00,000/-.

Hence, considering the value of the land as Rs.48,00,000/-, the cost per square feet would be Rs.2000/-. Admittedly, the tenant is in possession of ground floor measuring an extent of 1560 sq.ft. Hence, the total plinth area is $1560/2 = 780$ sq.ft. Hence, the value of the land is $\text{Rs.}2000 \times 780 = \text{Rs.}15,60,000/-$. All the other calculations with regard to Ground floor RCC roof area 1560 sq.ft @ Rs.428 per sq.ft amounting to Rs.6,67,680/-; Basic amenities @ 15% amounting to Rs.1,00,152/- and Depreciation for 60 years at 1% amounting to Rs.4,12,325/- were not disputed. Thus, adding the building value after deducting the depreciation viz., Rs.4,12,325/- with the land value of Rs.15,60,000/- would amount to Rs.19,72,325/-. Hence, the fair rent for non-residential portion is Rs.19,723.25/- rounded off to Rs.19,720/-.

7.In fine,

(a) C.R.P.(NPD).No.4632/2014 filed by the landlord stands allowed in part and the fair rent is fixed at Rs.19,720/- per month instead of Rs.19,485/- per month, from the date of filing of the petition.

(b) C.R.P.(NPD).No.3000/2014 filed by the tenant stands dismissed.

(c) Both the parties are directed to bear their own costs.

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Index:Yes/No

R.MALA, J.

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Pre-Delivery order made in

C.R.P.(NPD).Nos.3000 &
4632 of 2014

Dated : 04.01.2017