

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2017

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P.(NPD).No.217 of 2015

Date of Reserving the Judgment	Date of Pronouncing the Judgment
31.01.2017	03.02.2017

1.Ajmunisa Waqf Alal Alad Trust
Rep by its Trustees
No.97, Coral Merchant Street
Chennai - 1.

2.Mrs.Ajmunisa
No.97, Coral Merchant Street
Chennai - 1.

3.Mrs.Razia Sultana
No.97, Coral Merchant Street
Chennai - 1.

4.Mrs.Badru Jahan
No.97, Coral Merchant Street
Chennai - 1.

.. Petitioners/Appellants/Petitioners

-Vs.-

M.Chandran, Proprietor
M/s.Sakthi Tailor
No.99, V.M.Street, Mylapore
Chennai - 4.

.. Respondent/Respondent/Respondent

Prayer:

Civil Revision Petition is filed under Section 115 CPC to modify the judgment and decree dated 22.08.2014 passed in RCA.No.325 of 2006 by the learned IX Judge, (Rent Control Appellate Authority) Court of Small Causes, Chennai confirming the judgment and decree dated 06.01.2006 passed by the learned XVI Judge (Rent Controller) Court of Small Causes, Chennai in RCOP.No.182 of 2003 and allow the CRP by fixing the fair rent at Rs.3554/- per month.

For Petitioners : Mr.K.P.Ashok

For Respondent : No Appearance [Mr.M.R.Murali]

ORDER

The revision petitioners/landlord have come up with the present Civil Revision Petition challenging the fair and decretal order dated 22.08.2014 made in RCA.Nos.325 & 91 of 2006 on the file of the learned IX Judge, (Rent Control Appellate Authority), Court of Small Causes, Chennai by confirming the judgment and decree dated 06.01.2006 made in RCOP.No.182 of 2003 on the file of the learned XVI Judge (Rent Controller), Court of Small Causes, Chennai.

2.The revision petitioners who are the landlord had filed the application in RCOP.No.182 of 2003 under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for fixation of fair rent stating that the contractual rent for the demised premises was fixed at Rs.125/- per month and

they sought to fix the fair rent at Rs.7360/- per month. The learned Rent Controller after considering the oral and documentary evidence had fixed the fair rent at Rs.2140/- per month from the date of filing of the petition. As against the said order of the learned Rent Controller, the tenant filed an appeal in R.C.A.No.91 of 2006 and the landlord filed R.C.A.No.352 of 2006. The learned Rent Control Appellate Authority by a common judgment dated 22.08.2014 had dismissed the appeals by confirming the fair rent fixed by the learned Rent Controller viz., Rs.2140/- per month, as against which the present Civil Revision Petition has been preferred by the landlord.

3.Heard the argument advanced by the learned counsel for the petitioners. Though the matter was periodically adjourned, there was no representation on behalf of the respondent.

4.The learned counsel appearing for the revision petitioners/landlord would submit that there is dispute only with regard to the land value. The landlord had filed document Ex.P.4/Sale deed, dated 15.07.1996 in which 324 sq.ft of land was sold for Rs.3,20,436/-. Hence, the land value in the year 1996 was Rs.23,73,600/- per ground. While so, the present petition for fixation of fair rent was filed in the year 2003 and hence, in view of the decision of the

Hon'ble Apex Court reported in **(2004) 2 Supreme Court Cases 283, *Krishi Utpadan Mandi Samiti, Sahaswan v. Bipin Kumar and Another***, appreciation at the rate of 15% has to be given for every subsequent year. Therefore, on giving 15% appreciation for every subsequent year from the year 1996 to 2003, the value of the land would be Rs.63,13,825/- per ground in the year 2003 and on the basis of the said amount, the fair rent had to be fixed. The learned counsel would further submit that there is no dispute with regard to any other aspect and hence, he prayed for allowing the revision.

5.Considered the submissions made by the learned counsel appearing for the petitioners and perused the entire records.

6.As already stated, though sufficient opportunity was granted, there was no representation on behalf of the respondent. It is pertinent to note that except Ex.P.4/Sale deed, dated 15.07.1996, no other document has been filed. Further, on behalf of the respondent, even the respondent has not been examined and no document was filed. As per Ex.P.1/Report of the engineer, dated 16.02.2004, the value of the land is fixed at Rs.75,00,000/- per ground. As per Ex.P.4/Sale deed, dated 15.07.1996, an extent of 324 sq.ft of land was sold for Rs.3,20,436/-. Hence, the land value in the year 1996 was

Rs.23,73,600/- per ground and after giving 15% appreciation for every subsequent year from the year 1996 to 2003, in view of the decision of the Hon'ble Apex Court reported in **(2004) 2 Supreme Court Cases 283, Krishi Utpadan Mandi Samiti, Sahaswan v. Bipin Kumar and Another**, the value of the land would be Rs.63,13,825/- per ground in the year 2003 and in the year 2004, it would be Rs.72,60,895/-.

7. Thus, considering the value stated in Ex.P.1/Report of the Engineer and Ex.P.4/Sale deed, I am of the view that it would be appropriate to consider the value stated in the sale deed of the year 1996 submitted by the landlord and after giving 15% appreciation for every subsequent year from the year 1996 to 2003, the value of the land could be arrived at Rs.63,13,825/-. It is also pertinent to note that there is no disputes with regard to any other aspects. Thus, the fair rent is calculated as follows:

<i>Fair Rent Calculations</i>	
Cost of Construction	
Ground Floor RCC shop area 162 sq.ft @ Rs.370/ per sq.ft	
162 x 370	Rs.59,940/-
Staircase and FOL share 24.7 x 300	Rs.7,410/-
	Rs.67,350/-
15% for basic amenities	Rs.10,102/-

<i>Fair Rent Calculations</i>	
Total	Rs.77,452/-
Depreciated Value (1% depreciation for 38 years 77,452 x 0.675)	Rs.52,280/-
<i>Land Value</i>	
Site extent (Sq.ft) - $162 + 24.7 = 186.7 / 2 = 93.35$	
The land value fixed at Rs.63,13,825/- per ground $93.35 \times 63,13,825 / 2400$	Rs.2,45,581/-
Depreciated Value + Land Value	Rs.2,97,861/-
3% for schedule – I amenities	Rs.8,936/-
Total	Rs.3,06,797/-

Since the petition premises is being used for non residential purpose, the fair rent is calculated is at 12% which comes to Rs.3067.97 rounded off to Rs.3050/-

8.In fine,

(a) The present Civil Revision Petition stands allowed and the fair rent is fixed at Rs.3050/- per month instead of Rs.2140/- per month, from the date of filing of the petition.

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

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R.MALA, J.

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Pre-Delivery order made in

C.R.P.(NPD).No.217 of 2015

Dated : 03.02.2017