

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.2830 & 2831 of 2009
and M.P.Nos.1,1 of 2009

1.Chiu Chong Sui (Deceased)

2.Peter Chiu Chong Sui

3.Grace Chiu Chong Sui

.. Petitioners
in both CRPs

(Cause Title accepted vide order of Court
Dated 07.09.2009 made in M.P.No.2 of 2009
in C.R.P.(NPD).No.51765 of 2006 and
C.R.P.SR.No.51767 of 2006)

Vs.

R.Chandrasekar

.. Respondent
in both CRPs

PRAYER: Civil Revision Petitions are filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, 1960 as Amended Act 20/73, against the order and decretal order dated 22.03.2006 made in R.C.A.Nos.24 and 25 of 2005 on the file of the learned Rent Control Appellate Authority(Sub Judge) at Ooty, as modified by order and decretal order dated 27.06.2005 made in R.C.O.P.No.66 of 2000 on the file of the learned Rent Controller(District Munsif) at Ooty.

For Petitioners : Mr.Srinath Sridevan

For Respondent : Mrs.AL.Ganthimathi

COMMON ORDER

The Civil Revision Petitions are filed against the order and decretal order dated 22.03.2006 made in R.C.A.Nos.24 and 25 of 2005 on the file of the learned Rent Control Appellate Authority(Sub Judge) at Ooty, modifying the order and decretal order dated 27.06.2005 made in R.C.O.P.No.66 of 2000 on the file of the learned Rent Controller(District Munsif) at Ooty.

2. The issues involved in both the Civil Revision Petitions are one and the same and hence they are disposed of by this common order.

3. The petitioners 2 and 3 are the legal heirs of the deceased first petitioner/Chiu Chong Sui, who was the tenant of the petition premises under the respondent. The respondent/landlord filed R.C.O.P.No.66 of 2000 on the file of the Rent Controller (District Munsif Court) at Ootacamund, against the first petitioner/tenant, for fixation of fair rent of Rs.12,000/- to the petition schedule

premises.

4. According to the respondent/landlord, the petition premises was under the occupation of the first petitioner/tenant/Chiu Chong Sui for commercial purpose. The petition premises is in the commercial road, opposite to Nilgiris Co-operative Super Market, in a prime commercial area, very close to bus stand, Railway Station, Hospitals, Schools, Government Botanical Garden, Boat House, close to Bharathiyar Municipal Shopping Complex, Charing Gross Shopping complex etc., and the petition premises has all amenities and the fair rent will be Rs.12,000/-.

5. The first petitioner/tenant filed counter statement and denied all the averments made in the R.C.O.P. filed by the respondent/landlord. According to the first petitioner/tenant, the property is of wooden structure with wooden partition walls and contractual rent of Rs.65/- will be the fair rent.

6. Before the learned Rent Controller, the respondent examined himself as P.W.1 and did not mark any document. The first petitioner/tenant did not let in any oral and documentary

evidence. C.W.1 and C.W.2/Engineers were examined as Court witnesses.

7. The learned Rent Controller considering pleadings, oral and documentary evidence and report of the engineers, fixed the fair rent at Rs.2,420/-.

8. Against the said order dated 27.06.2005 made in R.C.O.P.No.66 of 2000, the first petitioner/tenant filed R.C.A.No.24 of 2005 and respondent/landlord filed R.C.A.No.25 of 2005.

9. The learned Appellate Authority by a common judgment dated 22.03.2006, considering the materials on record and the order of the learned Rent Controller, dismissed R.C.A.No.24 of 2005 filed by the first petitioner/tenant and partly allowed the R.C.A.No.25 of 2005 filed by the respondent/landlord and modified the fair rent fixed by the learned Rent Controller from Rs.2,420/- to Rs.5,434/- per month.

10. Against the said common judgment dated 22.03.2006 made in R.C.A.Nos.24 and 25 of 2005, the present two Civil Revision Petitions are filed by the petitioners.

11. In the meanwhile, the first petitioner/tenant Chiu Chong Sui, died and the petitioners 2 and 3, who are the son and daughter of the first petitioner/tenant, filed the present two Civil Revision Petitions.

12. Heard the learned counsel for the petitioners 2 and 3 as well as respondent and perused the materials on record.

13. The main contention of the learned counsel for the petitioners 2 and 3 is that the Courts below erred in fixing the market value of the land without any basis. The learned Rent Controller erred in accepting the guideline value and reports given by the engineers, while fixing the value of the land at Rs.1850/- per sq.ft. The engineer has not mentioned the persons whom he enquired and their qualification, while fixing the market value of the land. The learned Appellate Authority erred in modifying the order of the learned Rent controller, who fixed the land value at Rs.345/- and enhancing the same more than four times to Rs.1850/-. The learned Appellate Authority failed to consider that

the respondent/landlord has not examined any independent witness to prove the value of the land. The learned Appellate Authority failed to appreciate the decision of this Court in C.R.P.No.3778 of 1999. The learned Appellate Authority erred in refixing the land value from Rs.345/- to Rs.1850/- per sq.ft. on the ground that the first petitioner/tenant has not produced any evidence for the value of the land.

14. All the above contentions raised by the learned counsel for the petitioners 2 and 3 are without merits. The respondent/landlord has produced a sale deed dated 11.09.1995 by which the property was purchased by him for the value of Rs.2,00,000/- at that time. The engineer who was examined as C.W.1 has stated that he is a qualified valuer not only for the building, but also for the land. The first petitioner/tenant has not produced any evidence to disprove the said assertion of the engineer. The engineer in his report has given details as to how he has arrived at the value of the land. The first petitioner/tenant has not produced any evidence to show that the report of the engineer is not correct and value given by the engineer is not correct.

15. In the absence of any other evidence, the learned Appellate Authority elaborately considered the report of the engineer and has given cogent and valid reason for accepting the same. It is an admitted fact that no sale has been taken place in that locality during that period. Considering all the materials on record in entirety, I hold that there is no irregularity or illegality warranting interference by this Court with the judgment passed by the learned Appellate Authority dated 22.03.2006.

16. In the result, these two Civil Revision Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Index : Yes/No
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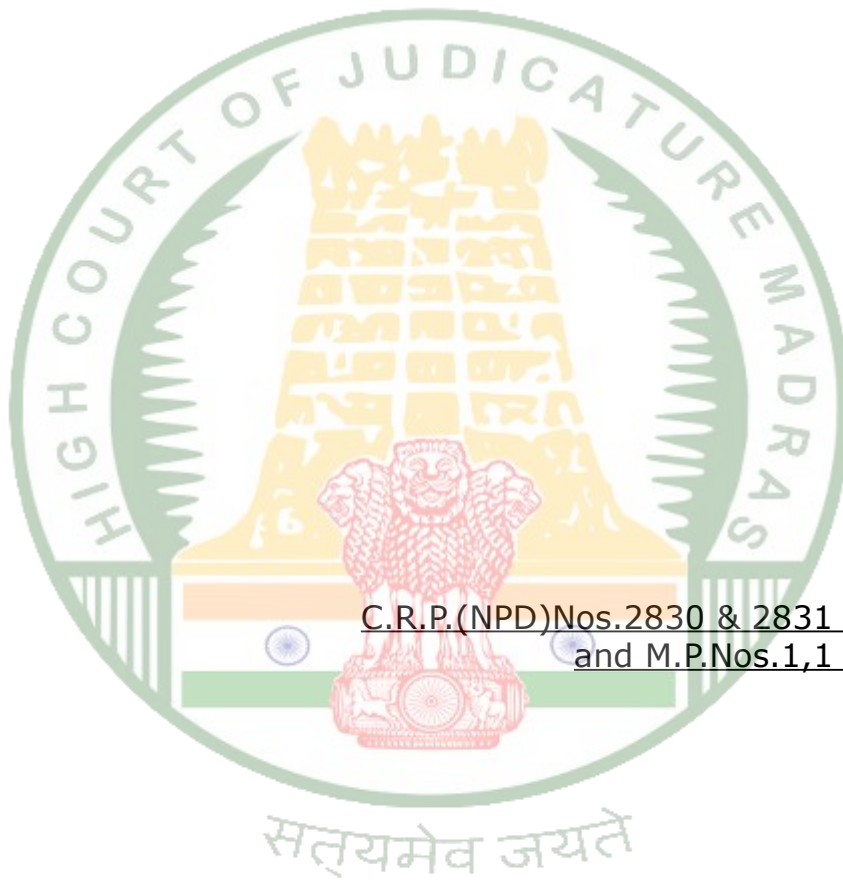
To

1.The Rent Control Appellate Authority(Sub Judge),
Ooty.

2.The Rent Controller(District Munsif) at Ooty.

V.M.VELUMANI, J.

dm/kj



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