

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.390 of 2010
M.P.No.1 of 2012

M/s. Mehta Steel House,
rep. By its Proprietor
Dayalal Soni
No.184, Mint Street,
Chennai 600 003.

.. Petitioner

Vs.

Geetna.R.Davey

.. Respondent

(Cause title accepted vide
order of Court dated 29.01.2010
made in M.P.No.1 of 2010)

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act against the fair and decretal order dated 28.01.2009 passed by Appellate Authority in R.C.A.No.787 of 2001 on the file of the VII Judge, Court of Small Causes at Chennai, modifying the fair and decretal order dated 13.08.2001 made in R.C.O.P.No.2649 of 1998 by the learned Rent Controller on the file of XIIth Judge, Small Causes Court, Chennai.

For Petitioner : No appearance

For Respondent : M/s.Aiyar & Dolia

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 28.01.2009 passed by Appellate Authority in R.C.A.No.787 of 2001 on the file of the VII Judge, Court of Small Causes at Chennai, modifying the fair and decretal order dated 13.08.2001 made in R.C.O.P.No.2649 of 1998 by the learned Rent Controller on the file of XIIIth Judge, Small Causes Court, Chennai.

2. The petitioner is tenant and respondent is the landlord in R.C.O.P.No.2649 of 1998 on the file of XIIIth Judge, Small Causes Court, Chennai. The respondent filed the said R.C.O.P against the petitioner for fixation of fair rent at Rs.7,293/-. According to the respondent, the building is in busy commercial area and fair rent would be Rs.7,293/-. The petitioner filed counter affidavit and denied various averments made by the respondent. According to the petitioner, the rent now paid will be the fair rent and prayed for dismissal of the R.C.O.P.

3. Before the learned Rent Controller, the petitioner and respondent examined engineers and marked documents. The learned Rent Controller, considering the pleadings, oral and documentary evidence, fixed the fair rent

at Rs.5,283/-. Against the said order, the respondent filed R.C.A.No.787 of 2001 for enhancement of fair rent fixed by the learned Rent Controller. From the judgment of the learned Appellate Authority made in R.C.A.No.787 of 2001, it is seen that the petitioner has also filed R.C.A.No.634 of 2001 and the same was dismissed for default. According to the petitioner, the petition SR.No.13450 of 2007 filed to restore the appeal R.C.A.No.634 of 2001 was not traced. The learned Appellate Authority re-appreciated the evidence let in by the petitioner and respondent and Ex.P3, the sale deed dated 13.07.1990 filed by the respondent and evidence of both the engineers and dismissed the appeal filed by the respondent, but at the same time reduced the fair rent fixed by the learned Rent Controller from Rs.5283/- to Rs.5164/-.

4. Challenging the said judgment dated 28.01.2009 made in R.C.A.No.787 of 2001, modifying the order dated 13.08.2001 made in R.C.O.P.No.2649 of 1998, the petitioner/tenant has filed the present Civil Revision Petition.

5. Heard the learned counsel appearing for the respondent and perused the materials available on record.

6. The Civil Revision Petition filed by the petitioner/tenant is liable to be dismissed on two grounds:

1. On technical ground, the appeal filed by the petitioner in R.C.A.No.637 of 2001 was dismissed for default. According to the petitioner, he filed petition S.R.No.13450 of 2007 to restore the R.C.A.No.637 of 2001 filed by him to file. From the materials on record, it is seen that the petitioner has not taken effective steps to restore the R.C.A filed by him, except stating that petition filed by him to restore the R.C.A was not traceable.

2. The learned Appellate Authority dismissed the R.C.A.No.787 of 2001 filed by the landlord/respondent, but at the same time, reduced the fair rent fixed by the learned Rent Controller.

7. The learned Appellate Authority appreciated the evidence let in by the parties in proper perspective and has fixed the fair rent at Rs.5164/-. The learned Appellate Authority has properly followed the procedure contemplated under the Act and there is no irregularity or illegality warranting interference with the order of the learned Appellate Authority dated 28.01.2009.

8. In the result, the Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

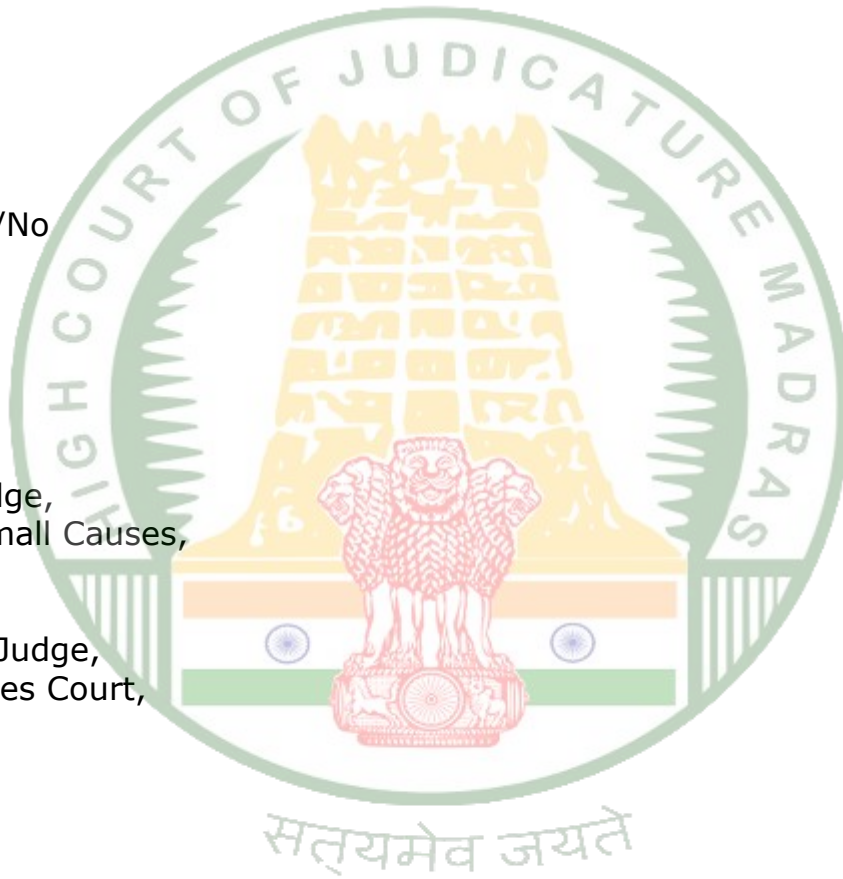
05.10.2017

Index : Yes/No

gsa

To

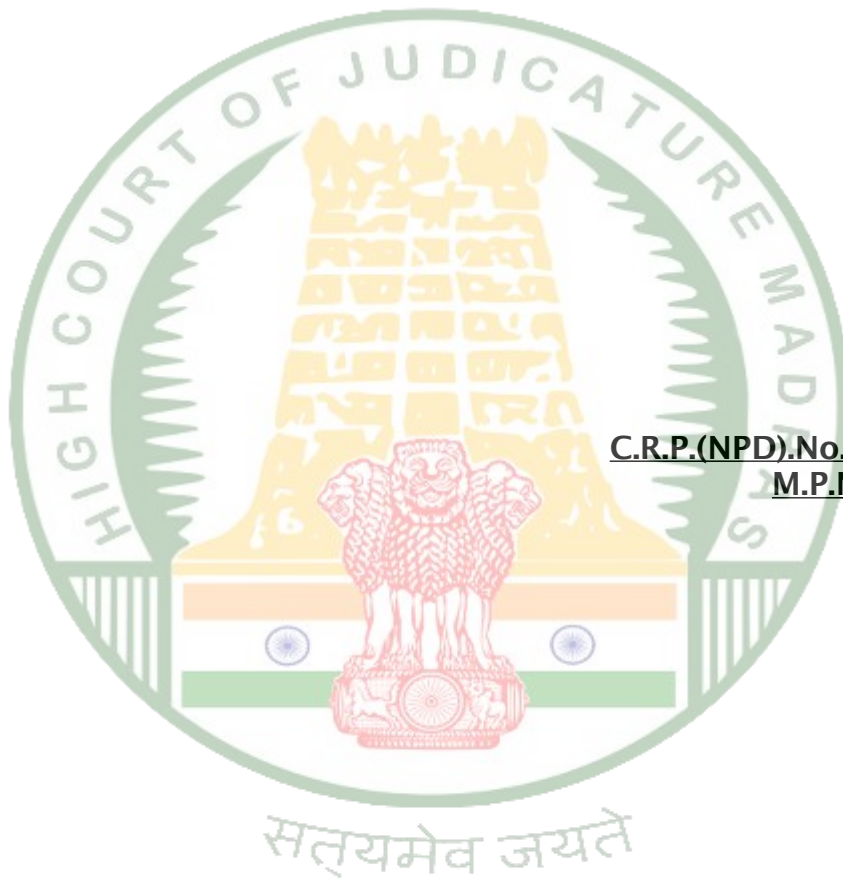
1. The VII Judge,
Court of Small Causes,
Chennai.
2. The XIIIth Judge,
Small Causes Court,
Chennai.



WEB COPY

V.M.VELUMANI, J.

gsa



C.R.P.(NPD).No.390 of 2010
M.P.No.1 of 2012

WEB COPY

05.10.2017