

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(NPD)No.4224 of 2013
and
M.P.No.1 of 2013**

Dhanapal Naidu
Proprietor,
Naidu Electronics,
Shop No.15, GF No.834,
Raheja Complex,
Anna Salai, Chennai.

.. Petitioner

Vs.

Kawaljit Aneja

..Respondent

Prayer: Civil Revision Petition filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the Judgment and Decree dated 19.09.2013 made in R.C.A.No.697 of 2012, on the file of VIII Small Causes Court, Chennai in so far as partly allowing the Judgment and Decree dated 16.06.2012 made in R.C.O.P.No.1380 of 2009, on the file of XI Small Causes Court, Chennai.

For Petitioner : Mr.G.Arulmurugan

For Respondent : Mr.P.Sidharthan

ORDER

The tenant is the revision petitioner in this civil revision Petition. This Civil Revision Petition is filed challenging the fixation of fair rent. It is the case of the respondent/landlord is that she filed R.C.O.P.No.1380 of 2009 before the XI Judge, Court of Small Causes Court, Chennai, against the revision petitioner herein for fixation of fair rent under Section 4 of Tamil Nadu Buildings (Lease and Rent Control) Act. She is the owner of the petition mentioned premises which is a non-residential building in the ground floor of D.No.834, Raheja Complex, Anna Salai, Chennai-2. There are three floors including basement and the 4th floor is partly build-up in the petition premises. The revision petitioner/ tenant is in occupation of shop No.15 which is situated in ground floor. According to the landlord the monthly rent is Rs.5000/-. The petition premises is situated in a busiest commercial area that too in Annasalai. Nearby the petition premises there are so many important buildings are situated. The age of building is 24-25 years and the petition premises are a Type1 Class A building. The petition premises are having all the amenities for Type1 buildings.

According to the landlord's Engineer the building is having all the amenities such as R.C.C. Roof, plinth area, ground floor common places, ground floor common toilet, and the build-up plinth area of the revision petitioner/ tenant is measuring 380 sq. feet. Therefore the landlord's Engineer after making detail calculation arrived at Rs.49,627/- as fair rent per month. Hence, the respondent herein/ landlord claiming Rs.49,627/- as fair rent per month for the petition mentioned premises.

2.The revision petitioner / tenant filed counter statement to the above R.C.O.P and contented that the landlord earlier filed eviction petition to evict him from the petition premises and the same was ended in his favour. The respondent / landlord having failed in her earlier attempt, has filed the present application for fixation of fair rent only to harass the tenant one way or other. The entire calculation with regard to the extent of the petition premises and common area calculated by the Engineer of the landlord is totally incorrect and it is highly excessive. It is not correct to state that the shop of the tenant is facing Anna Salai and the same is facing Narasingapuram street and therefore the valuation fixed by the Engineer of the landlord for Anna Salai area is not applicable to the petition premises. The present rent

itself is just and reasonable and hence he prayed for dismissal of the fair rent application.

3.The learned Rent Controller on careful consideration of the case of both parties has fixed Rs.25,800/- as fair rent per month for the petition premises from the date of petition by order and decree dated 16.06.2012. Aggrieved over the above said quantum of fair rent fixed by the Learned Rent Controller, the tenant/revision petitioner prepared appeal in R.C.A.No.697 of 2012 before the VIII Small Causes Court, Chennai.

4.The learned Rent Controller Appellate Authority after considering the rival submission on either side, has modified the order and decree passed by the Learned Rent Controller and fixed the fair rent at the rate of Rs.24,453/- per month for the petition premises from the date of filing of Rent Control Original Petition. By challenging the order and decree passed by the Learned Rent Controller Appellate Authority the tenant has come forward with this Civil Revision Petition.

5.I heard Mr.G.Arulmurugan, learned counsel appearing for the petitioner and Mr.P.Sidharthan, learned counsel appearing for the

respondent and perused the entire materials available on record.

6.The learned counsel for the revision petitioner strenuously contented that the courts below without considering the case of the tenant and without accepting the RW1 Engineer's report has arbitrarily fixed the fair rent which is on a higher side and the same is warranted interference by this Court. The learned counsel for the petitioner further contented that the petition premises is not facing Anna Salai and it is facing Narasingapuram Street only. Hence the fair rent fixed as if the petition premises is facing Anna Salai is not proper and the courts below erred in fixing the fair rent at the rate of Rs.24,453/- is liable to be set aside.

7.Per contra, the learned counsel appearing for the landlord/respondent contented that the authorities below after elaborate discussion of the case, come to the conclusion that the land value is at Rs.1,50,00,000/- per ground during 2009 and rightly fixed the fair rent on the basis of the value of the land fixed above. Therefore the fair rent fixed by the learned Rent Control Appellate Authority is in accordance with section 4 of the Tamil Nadu Building (Lease and Rent Controller) Act and the same is perfectly correct and does not warrant

interference by this Court.

8.This Court has carefully considered the arguments advanced on either side and perused the orders passed by the learned Rent Controller and Rent Control Appellate Authority.

9.It is seen from the records that on the side of the landlord two witnesses were examined and Exs.P1 to P6 marked and on the side of the tenant RW1 Engineer was examined and Exs.R1 to R4 were marked. As for as the type of building is concerned there is no dispute over the same as the both side Engineer admitted that the petition premises is a Type-1 Class-A building. With regard to the age of the building PW2 Engineer of the landlord stated that the petition premises is 25 years old and RW1 the Engineer of the tenant in his report mentioned the age of the building is 35 years old. However, both the Courts below come to the conclusion that the age of building is 25 years old. Therefore, this Court is also accepted the finding of the Court below with regard to the age of the building as it is 25 years old.

10.As for as the basic amenities are concerned, both the Engineers report stated that there are three basic amenities are

provided to the petitions premises. There is no major dispute with regard to the basic amenity provided to the petition premises is concerned. Now the only point for consideration for this Court is whether the land value fixed by the Courts below is required to be interfered or not? In this regard, this Court has closely perused the Ex.P3 sale deed and Ex.P5 analysis report filed by the landlord's Engineer and also Exs.R3 and R4 sale deed and analysis report marked on the side of the tenant through RW1. After careful consideration of the above side documents, the learned Rent Controller fixed the value of the land at Rs.1,50,00,000/- per ground during 2009 in and around the petition premises for calculating the fair rent. The learned Rent Control Appellate Authority also accepted the land value fixed by the learned Rent Controller after considering various judgments of this Court. Apart from that both the Courts below have correctly followed the fair rent formula provided under Section 4 of the Tamil Nadu Buildings (Lease and Rent Controller) Act to determine the annual value of the building. This Court does not find any reason to interfere with the well considered orders of the Courts below.

11. Therefore, I am unable to countenance the contention put forth by the learned counsel for the revision petitioner in this civil

revision petition. The learned Rent Controller Appellate Authority has relied upon various decisions and has applied the correct legal principles applicable to the facts of the case and hence this Court finds absolutely no reason to interfere with the concurrent findings of the Rent Controller Tribunals. In view of the forgoing reason, this Court is of the considered view that there is no illegality or infirmity to interfere with the well considered orders of the Court below and the same are confirmed. Hence, this Civil Revision Petition is liable to be dismissed.

12.In the result, this civil revision petition is dismissed, by confirming the order passed in R.C.A.No.697 of 2012, dated 19.09.2013, by the learned VIII Judge, Small Causes Court, Chennai, in partly allowing the order passed in R.C.O.P.No.1380 of 2009, dated 16.06.2012, by the learned XI Judge, Small Causes Court, Chennai. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2017

Note:Issue order copy on 12.06.2017

Internet:Yes

Index:Yes

vs

To

- 1.The VIII Judge, Small Causes Court,
Chennai.
- 2.The XI Judge, Small Causes Court,
Chennai.

M.V.MURALIDARAN, J.

VS

**Pre-Delivery order made in
CRP(NPD)No.4224 of 2013
and
M.P.No.1 of 2013**

15.03.2017