

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.3590 to 3592 of 2012

The Regional Manager
Central Warehousing Corporation
"Thiruvalar Illam", No.4
North Avenue, Srinagar colony
Saidapet, Chennai-600 015.

.. Petitioner
in all the CRPs.

Vs.

K.Vadivel Murugan

.. Respondent
in C.R.P.No.3590 of 2012

K.Parameswari Ammal

.. Respondent
in C.R.P.No.3591 of 2012

K.Muthukrishnan

.. Respondent
in C.R.P.No.3592 of 2012

PRAYER: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960, as amended by Act 23 of 1973 and Act 1 of 1980, against the judgment and decree dated 29.06.2012 made in R.C.A.Nos.253,254 & 255 of 2011 on the file of the VII Court of Small Causes, Chennai,

confirming the order dated 09.03.2011 made in R.C.O.P.Nos.694, 696 and 695 of 2009 on the file of the XIII Court of Small Causes, Chennai.

For Petitioner : Mr.Ashok Menon

For Respondent : No appearance

COMMON ORDER

The Civil Revision Petitions are filed against the judgment and decree dated 29.06.2012 made in R.C.A.Nos.253,254 & 255 of 2011 on the file of the VII Court of Small Causes, Chennai, confirming the order dated 09.03.2011 made in R.C.O.P.Nos.694, 696 and 695 of 2009 on the file of the XIII Court of Small Causes, Chennai.

2. The petitioner in all the three civil revision petitions is the tenant in respect of three different non residential portions used as godowns. The respondents are the landlords filed R.C.O.P.Nos.694, 696 and 695 of 2009 for fixation of fair rent of Rs.50,371/-, Rs.57,336/- and Rs.37,554/- respectively. The respondents have furnished extent of land, locality and amenities available. According to the respondents, the petition premises belong to one K.Parameswari Ammal, the respondent in C.R.P.No.3591 of 2012

and mother of the other respondents in C.R.P.Nos.3590 and 3592 of 2012. As per the family arrangement, the respondents in C.R.P.Nos.3590 and 3592 of 2012 are permitted to let out and collect the rents.

3. The petitioner filed separate counter statements on 02.02.2010 in all the three R.C.O.Ps. and denied various averments made in the R.C.O.Ps. and submitted that the respondents in C.R.P.Nos.3590 and 3592 of 2012 are not authorised to file petitions for fixation of fair rent and disputed the claim of the respondents with regard to quantum of fair rent.

4. Before the learned Rent Controller, the respondents examined an Engineer as P.W.1 and marked four documents as Exs.P1 to P4. The petitioner examined an Engineer as R.W.1 and marked one document as Ex.R1.

5. The learned Rent Controller considering the pleadings, oral and documentary evidence fixed monthly rent at Rs.49,524/-, Rs.56,373/- and Rs.36,922/- in R.C.O.P.Nos.694, 696 and 695 of 2009 respectively, following the procedure contemplated under the Tamil Nadu Buildings (Lease and Rent Control) Act.

6. Aggrieved by the said order passed by the learned Rent Controller, the petitioner has filed appeals in R.C.A.Nos.253,254 & 255 of 2011 on the file of the VII Court of Small Causes, Chennai.

7. In the appeals, the learned counsel for the appellant/petitioner herein contended that the respondents in C.R.P.Nos.3590 and 3592 of 2012 are not entitled to file R.C.O.Ps. for fixation of fair rent, as they are not authorised agents as per Section 2(6) of the Tamil Nadu Buildings (Lease and Rent Control) Act. The extent taken into consideration by the learned Rent Controller is not correct. The learned Rent Controller erroneously accepted the value given by P.W.1/Engineer of the respondents and rejected the value given by R.W.1/Engineer of the petitioner for invalid reason.

8. The learned Appellate Authority considering the definition of the landlord as per Section 2(6) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, held that the respondents in C.R.P.Nos.3590 and 3592 of 2012 are entitled to file R.C.O.Ps. for fixation of fair rent. The learned Appellate Authority considering the evidence of P.W.1 and R.W.1, accepted the extent of the land as

mentioned by P.W.1 in view of the fact that a sketch has been filed along with a report and that R.W.1/Engineer of the petitioner has not filed any sketch with regard to exact extent occupied by the petitioner, accepted the value given by P.W.1 in view of the property under Ex.P3 sale deed, which is situated only 10 buildings away from the petition premises and confirmed the order of the learned Rent Controller.

9. Against the said judgment and decree dated 29.06.2012 made in R.C.A.Nos.253, 254 & 255 of 2011 on the file of the VII Court of Small Causes, Chennai and order dated 09.03.2011 made in R.C.O.P.Nos.694, 696 and 695 of 2009 on the file of the XIII Court of Small Causes, Chennai, the present three Civil Revision Petitions are filed by the petitioner/tenant.

10. The learned counsel for the petitioner reiterated the very same grounds raised before the Courts below and contended as follows:

(i) The respondents in C.R.P.Nos.3590 and 3592 of 2012 are not entitled to file petitions for fixation of fair rent.

(ii) The Courts below have erred in accepting the extent of land given by P.W.1/Engineer of respondents, which is contrary to the extent given by the respondents in R.C.O.Ps., which is accepted

by the petitioner and R.W.1/Engineer of the petitioner.

(iii) The Courts below erred in accepting the value given by P.W.1 in absence of any document and rejected the value given by R.W.1/Engineer of petitioner, without any valid reason.

11. There is no representation on behalf of the respondents. Heard the learned counsel for the petitioner and perused the materials available on record.

12. The points for consideration in all the three civil revision petitions are as follows:

(1) Whether the respondents in C.R.P.Nos.3590 and 3592 of 2012 are entitled to file R.C.O.Ps. for fixation of fair rent?

(2) Whether the Courts below have fixed fair rent by considering the evidence properly and adopting the procedure contemplated in the Tamil Nadu Buildings (Lease and Rent Control) Act.

(3) Whether the fair rent fixed by the Courts below are correct?

13. Point No.1:

(i) According to the petitioner, the respondents in C.R.P.Nos.3590 and 3592 of 2012 have no authority to file R.C.O.Ps. for fixation of fair rent as admittedly the properties belong to their mother/K.Parameswari, who is the respondent in C.R.P.No.3591 of 2012 and she has not given any power of attorney or written authorisation to the respondents as contemplated under Section 2(b) of the Tamil Nadu Buildings (Lease and Rent Control) Rules, 1974. The said Rule reads as follows:

Rule 2(b):

“recognised agent” means--

- “(i) a person holding a power-of-attorney authorising him to act on behalf of his principal; or
- (ii) an agent empowered by written authority under the hand of his principal;”

Relying on this Rule, the learned counsel for the petitioner contended that mother of the respondents in C.R.P.Nos.3590 and 3592 of 2012 did not execute any power of attorney appointing them as her agents and has not given any written authorisation to act on her behalf. Therefore, they are not entitled to file C.R.Ps. This contention is without merits in view of definition of landlord in Section 2(6) of the Act. Section 2(6) defines 'landlord', which reads as follows:

“ **Section 2(6)** “landlord” includes the person

who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent if the building were let to a tenant;"

(ii) As per the definition of landlord, a person who receives rent or who is entitled to receive rent is a landlord. In the present case, the respondents have stated that as per the family arrangement, mother of the respondents in C.R.P.Nos.3590 and 3592 of 2012 has authorised them to collect the rent. It is not disputed by the petitioner that the respondents are authorised to collect the rent. In view of the fact that the respondents are authorised to collect the rent and they are receiving rent from the petitioner, they are the landlords as per the definition as referred to above. As landlords, the respondents in C.R.P.Nos.3590 and 3592 of 2012 are entitled to file petitions for fixation of fair rent. Point No.1 is answered accordingly.

14. Point Nos.2 and 3:

(i) The contention of the learned counsel for the petitioner is

that the Courts below erred in accepting the extent of land given by P.W.1 in his report, which is in excess of extent mentioned by the respondents in R.C.O.Ps. This contention is without merits. The learned Appellate Authority considering the report of P.W.1/Engineer of the respondents and sketch filed along with report, R.W.1/Engineer of petitioner has not filed any sketch, accepted the extent given by P.W.1/Engineer of the respondents on the ground that P.W.1 has actually measured the property and has given report along with sketch. In the circumstances, there is no error in the reasoning of the learned Appellate Authority to accept the extent of the land given by P.W.1.

(ii) As far as value of the land is concerned, R.W.1 in his report/Ex.R1 has given value of one ground as Rs.15,00,000/- based on the enquiry made by him in the locality and in the Sub-Registrar's Office. But he has not filed any document to substantiate the value given by him. On the contrary, P.W.1 has filed Ex.P3 sale deed relating to the sale during the relevant period with regard to sale of the property, which is only 10 buildings away from the petition premises and value of one ground is given as Rs.19,39,200/-. The Courts below have rightly accepted Ex.P3/sale deed and fixed the value of property at Rs.19,50,000/- per ground. Based on these facts, the Courts below have applied the formula

contemplated in the Act and fixed fair rent at Rs.49,524/-, Rs.56,373/- and Rs.36,922/- respectively. Point Nos.2 and 3 are answered accordingly.

15. The Courts below considering all the above facts rightly fixed fair rent. There is no irregularity or illegality, warranting interference with the order and judgment of the Courts below.

16. In the result, all the three Civil Revision Petitions are dismissed. No costs.

06.09.2017

Index : Yes/No

Speaking/Non-Speaking order

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To

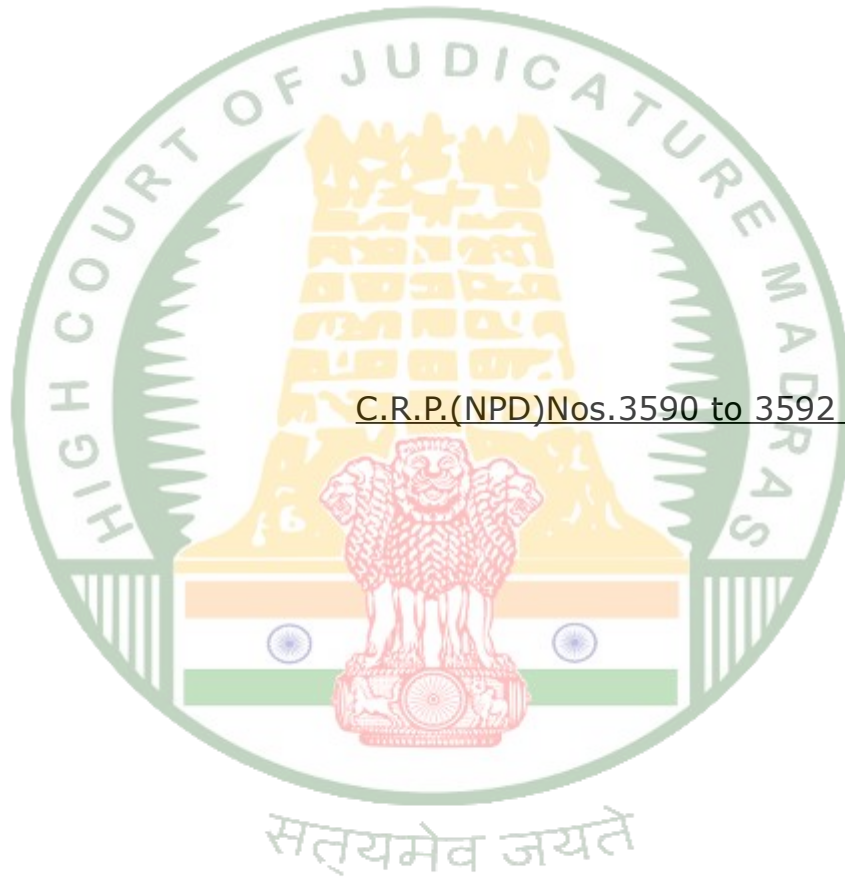
1.VII Court of Small Causes, Chennai.

2.XIII Court of Small Causes, Chennai.

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V.M.VELUMANI, J.

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