

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.1750 of 2009

ORDER:

This Civil Revision Petition, filed by the petitioner/appellant, under Section 22 of the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short, "the Act"), is arising out of the order and decree, dated 05.01.2009, passed in R.A.No.293 of 2006, on the file of the Additional Chief Judge, City Small Causes Court at Hyderabad, whereby the appellate Court dismissed the appeal by confirming the order, dated 21.09.2006, in R.C.No.324 of 2003, passed by the II Additional Rent Controller, Hyderabad, fixing the fair rent @ Rs.3,000/- per month from the date of the petition.

2. The brief facts of the case are that the petitioner is the tenant and the respondent is landlord. Originally, the landlord filed a petition under Section 4 of the Act against the tenant seeking fixation of fair rent from Rs.731/- to Rs.6,000/- per month in respect of premises bearing Municipal No.4-5-501/4, situated at Badi Chawdi, Sultan Bazar, Hyderabad, whereby the learned Rent Controller has allowed the petition in R.C.No.324 of 2003 by fixing the fair rent @ Rs.3,000/- per month in respect of the petition schedule mulgi and the respondent was directed to pay the above said fixed rent to the petitioner from the date of filing of the petition.

3. Heard learned counsel for the petitioner and the learned counsel for the respondent and perused the material available on record.

4. It is an admitted fact that there is a jural relationship between the petitioner/tenant and respondent/landlord. The

appellate Court has properly appreciated the evidence on record and came to a right conclusion that the learned Rent Controller has taken into consideration several aspects as contemplated under Section 4 of the Act for fixation of fair rent.

5. It is appropriate to refer to the findings of the appellate Court for appreciation of the evidence on record, which read as follows:

“In view of the principals laid down in a decision reported in **Suresh Gir Vs. K. Sahadev (1998(1) ALD page 25)**, the Rent Controller has got substantive power to make an enquiry for fixation of fair rent and can fix fair rent taking into consideration of plinth area of the building, type of construction, age of the construction and rent prevailing in the market for the similar purpose with similar amenities within the vicinity of schedule premises. Thus, the relevant considerations are age of the building, type of construction, amenities provided, purpose for which it is to be put and the prevailing rate of rent for the similar buildings with similar amenities and purpose.

Even in those circumstances also, the Rent Controller can take judicial notice of hike in rate of rents, standard of living, hike in wages of salaried employees, price index etc. The Supreme Court while deciding a case under Bombay Rents, Hotel and Lodging House Rates Control Act, in Para No.28 held that:-

“It is not as if the Government does not take remedial measures to try and off set the effects of inflation. In order to provide fair wage to the salaried employees the Government provides for payment of dearness and other allowances from time to time. Surprisingly, this principle is lost sight of while providing for increase in the standard rent the increases made even in 1987 by the amendment are not adequate, fair or just and the provisions continue to be arbitrary in today’s context.”

Similarly, in another decision reported in AIR 1986 S.C. Page 1444 [Rattan Arya etc., Vs. State of Tamil Nadu and another] the Apex Court held that:-

“In a petition filed for fixation of fair rent the court can take judicial notice of enormous manifold increase of rents throughout the country, particularly in urban area”.

In view of the principles laid down in the above decisions, fixation of fair rent taking into consideration of hike in rental values particularly in urban areas is not against the law. Though those two decisions are under different state enactments the principle laid down therein can be looked into and there is nothing wrong in fixation of fair rent taking judicial notice of the factors mentioned in those two decisions. Therefore, the contentions of the tenant in the grounds of appeal regarding following the principle laid down in the above two decisions is not sustainable. It is a known fact that the city of Hyderabad is fact developing city due to Information Technology Development and other Industrial Development for the last ten years and the rental values in Hyderabad city increased to so many folds. Rw-1 himself admitted that he has not measured the petition schedule mulgi. According to him the petition schedule mulgi is 90.95 sq.ft. But fails to discard the evidence filed by the landlord i.e., Ex.A-1 the sketch plan issued by the Municipal authorities showing the plinth area of the petition schedule premises is 130 sqft. Therefore, I came to a conclusion that the petition schedule premises consisting of 130 sq. ft. Apart from that the tenant himself admitted that the majority of the persons at Badi Chawdi, Sultan Bazar are carrying on the business. The other co-tenants are also running the cloth and finance business. The tenant himself admitted that the landlord provided electricity amenity. It is main amenity to carry the business. Therefore, the admissions of Rw-1 himself is sufficient to conclude that the petitions schedule premises is situated in Sultan Bazar area. Even the landlord was not pleaded in the eviction petition filed by him. Therefore, I came to a conclusion that there is a reasonable increase in the rate of rent during the period of 10 years. Considering the plinth area of the petition schedule premises, nature of use,

amenities provided to the building and also considering the age of the building and its location, I feel that Rs.23-07 per sqft is just and reasonable as on the date of filing the petition. Thus, the rent payable for the premises for an extent of 130 sqft. comes to Rs.3000/- per month. Therefore, I find no illegality and unreasonableness in fixation of fair rent by the Rent Controller in fixing the fair rent. Hence, the finding of the Rent controller is hereby confirmed holding this point in favour of the landlord against the tenant.”

6. It is pertinent to note that the tenanted premises is situated in an area called Sultan Bazar. It is one of the big shopping complexes in Hyderabad. There is a steep raise in the rents for the past 10 years, as observed by the appellate Court. The co-tenants are running cloth and finance business in that area. The tenant himself admitted that the landlord has provided electricity as amenity. It is the main source to carry on the business in that area. The appellate Court, on consideration of various aspects like plinth area of the petition schedule premises, nature of use, amenities provided to the building and the age of the building and its location, has fixed Rs.23.07/- per square feet as a reasonable rent. Accordingly, the appellate Court assessed rent payable @ Rs.3,000/- per month for the premises of an extent of 130 square feet. The fixation of rent by the learned Rent Controller in R.C.No.324 of 2003, which was confirmed by the appellate Court in R.A.No.293 of 2006 does not require any interference keeping in view the fast growth in the cloth and finance business sector in the State Capital City Hyderabad, more particularly, the area where the tenanted premises is situated. Therefore, I do not see any valid reasons to interfere with the findings of the appellate Court, which has confirmed the order of the learned Rent Controller in fixation of the fair rent.

7. Learned counsel for the petitioner mainly contended that the appellate Court has fixed the fair rent on higher side without there being any basis by assumptions and presumptions. As a matter of fact, the fixation of the rent by both the Courts below is based on the evidence on record. Therefore, it does not require any interference and the civil revision petition is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

GUDISEVA SHYAM PRASAD, J

Date: 12th April, 2017

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