

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.1682 of 2017

ORDER:

This Civil Revision Petition, under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960, (for short, 'the Act'), by the unsuccessful appellants/respondents/tenants, is directed against the order, dated 20.02.2017, of the learned Additional Chief Judge, City Small Causes Court, Hyderabad, passed in R.A.No.171 of 2016, whereby the learned Additional Chief Judge while dismissing the aforestated appeal confirmed the order, dated 30.06.2016, of the learned Principal Rent Controller, Secunderabad, passed in R.C.No.163 of 2014, whereby the learned Principal Rent Controller while allowing the petition of the petitioner/landlady fixed the fair rent @ Rs.22,000/- per month in respect of the petition schedule mulgi, admeasuring 400 square feet, which is located in the ground floor of the building known as 'AZIZ MANSION' bearing premises No.5-5-85, situated at Ranigunj, Secunderabad, more fully described in the schedule annexed to the Rent Control case.

2. I have heard the submissions of *Smt. K. Annapurna Reddy*, learned counsel appearing for the Revision petitioners and *Sri Pratap Narayan Sanghi*, learned counsel appearing for the sole respondent. I have perused the material record.

3. The parties in this revision shall hereinafter be referred to as petitioner/landlady and respondents/tenants as arrayed in the original rent case, for convenience and clarity.

4. To begin with, it is necessary to refer to the pleadings of the parties.

4.1 The case of the petitioner/landlady, in brief, is this:

“She is the landlady being the absolute owner of the petition schedule mulgi. The first respondent company is in occupation of the said mulgi as a tenant. The tenancy is a month to month oral tenancy. The month of tenancy is English Calendar month. The first respondent/tenant is paying rent @ Rs.425/- per month. The said rent is exclusive of electricity consumption charges. The monthly rent is payable in advance on or before 5th of every month. The first respondent/tenant is tendering the monthly rents by way of money orders. Originally, the father of the petitioner/landlady leased out the petition schedule mulgi on a monthly rent @ Rs.120/- to the first respondent/tenant in the year 1968, that is, at a time when the first respondent concern/firm was being represented by Utamchand L.Domadia. The rent was enhanced from time to time. From April, 1978, onwards, the first respondent/tenant paid rent @ Rs.135/- per month. From April, 1981 onwards, the rent was paid @ Rs.180/- per month. From October, 1985 onwards, the rent was paid @ Rs.300/- per month. Finally, the rent was enhanced to Rs.425/- in April, 1992, and from April, 1992 onwards, there is no increase in monthly rents even though more than 22 years have elapsed as on the date of the filing of the rent case in the year 2014. In the year 1994, partition took place among the family members of the petitioner/landlady. The petition schedule mulgi fell to the share of M.A. Basheer. On his death, the mulgi has fallen to the share of the father of the petitioner/landlady. He gifted the petition schedule mulgi to the petitioner. The tenancy was attorned to the petitioner/landlady and the first respondent/tenant was informed about the same. After such intimation, the first respondent/tenant has been paying rents regularly through money orders to the

petitioner/landlady. The first respondent/tenant is using the petition schedule mulgi for commercial purpose since last several decades. It is located in the centre of the city and is very near to Subash Road, M.G. Road and Kingsway. Thus, it is located in a busy commercial centre of Secunderabad. Film Distribution Offices, General Stores, Bakeries, Sweetmeat shops, Electrical shops, Electronics & hardware shops, Furniture shops, Hotels & Restaurants, Lodging Houses, Medical Halls, Post Office, Banks, shops selling Industrial Equipment, two wheeler and motor cycle show rooms and readymade garment shops are all located in the same area. Ranigunj Bus Depot, a Petrol Pump and wholesale & retail shops are also situated within the vicinity of the petition schedule property and at a distance of stone's throw. The other business centres viz., General Bazar and Monda Market are also located at a walkable distance from the said mulgi. The prevailing rental value in the vicinity is Rs.100/- per square foot. The rent being paid by the first respondent is very low. The neighbouring portions/mulgies are fetching very high rental values. Such accommodations which are fetching such high rents are similar in nature to the petition schedule mulgi. The rent being paid by the first respondent/tenant is hardly sufficient to meet the monthly expenses of the petitioner/landlady. The property tax being paid by the petitioner/landlady in respect of the petition schedule mulgi is Rs.5,070/-. The rent being paid is not even sufficient to meet the property tax payable in respect of the mulgi. Even the tenants who are in occupation of the other mulgies in the same building since a long time are paying rents @ Rs.40/- per square foot. The petitioner/landlady, through her brother, M.A. Aziz, made several requests to the 1st respondent/tenant to enhance the rent. The daughter and son by names Parul Shah and Bhavesh (who are children of Naveen Chandra N. Domadia) have not responded properly. Finally in the last week of

September, 2014, they informed that whatever rent that is being paid is reasonable and that they are not inclined to increase the rent any more. In the prevailing circumstances, a sum of Rs.40,000/- per month would be a reasonable and a fair rent in respect of the petition schedule mulgi. Hence, the petitioner got issued a legal notice, dated 23.09.2014, calling upon the first respondent/tenant to pay the prevailing market rate of rent @ Rs.40,000/- per month. The first respondent/tenant issued a reply, dated 08.10.2014, with untenable allegations and failed to comply with the demand in the notice of the petitioner. In the reply notice, it is stated as follows:

“My client is not interested in any litigation; any reasonable settlement as per the prevailing rates of rent in the locality as may be mutually agreed is welcome.”

Hence, the petition is filed for fixing fair rent for the petition schedule mulgi @ Rs.40,000/- per month.”

4.2 The case of the first respondent/tenant, as stated in the counter filed before the Court of the learned Principal Rent Controller, in brief, is as follows:

“The material allegations in the petition of the petitioner/landlady are all false. The same are specifically denied. The allegation that the value of the petition schedule mulgi will be around Rs.15,00,000/- is false and frivolous. The prevailing rental value in the vicinity is Rs.100/- per square foot is false. The petition schedule mulgi is located in centre of the city and is very near to Subash Road, M.G. Road and Kingsway of Secunderabad is true. The allegation that the rent being paid is very low is false. The allegation that accommodations similar to that of the petition schedule mulgi are fetching high rental values is false. The rent being paid is not even sufficient to pay the property tax of Rs.5,070/- is

also false. The allegation that even old tenants in occupation of similar accommodations are paying rents @ Rs.40/- per square foot is false. The allegation that the mulgi would fetch Rs.40,000/- as rent per month and that the said rent is a reasonable and a fair rent is false. The petition is filed to extort money from this respondent. There are no amenities like drinking water, urinals, etcetera in the petition schedule mulgi. There is no parking space for the customers. There is no maintenance to the building including the petition schedule mulgi. Whenever this respondent is making demands for providing amenities, the petitioner is harassing this respondent by issuing legal notices and by filing false cases. There has been no drastic change or improvement in the properties or businesses in the locality; however, it is a fact that the population has increased. In fact, on account of increase in the number of vehicles, the area where the petition schedule mulgi is situated has become congested. When a notice was issued, a suitable reply was sent. The petition is filed by suppressing the facts. There is no dispute with regard to tenancy and payment of rents. There is no increase in monthly rent even though 22 years have elapsed is an untenable allegation as the petitioner/landlady is not showing any interest in the properties and is not even collecting the rents. This respondent/tenant filed a petition in R.C.No.205 of 1999 before the Rent Control Court and is depositing rents from 01.02.1999 onwards to the credit of the said RC @ Rs.425/- per month. The petitioner has not appeared in the aforestated R.C.No.205 of 1999. The present case is filed with false allegations. If really, the petitioner has got any grievance, she could have entered appearance in the said R.C.No.205 of 1999 and ought to have brought the grievances to the notice of the Court. After 16 years of filing of the above case, the present case is filed with false and frivolous allegations. The claim of

rent @ Rs.40,000/- per month is highly exorbitant. The petition is liable to be dismissed.”

5. At the time of enquiry before the learned Principal Rent Controller, the petitioner and her supporting witnesses were examined as PWs.1 to 5 and Exs.P-1 to P-5 were marked on her side. Parul Bharat Shah, i.e., the 2nd respondent representing the first respondent/tenant is examined as RW.1 and Exs.R-1 and X-1 to X-4 were marked on the side of the respondents.

6. On merits, the learned Principal Rent Controller fixed the fair rent for the petition schedule mulgi @ Rs.22,000/- per month and the said orders of the learned Principal Rent Controller were confirmed in the Rent appeal. Hence, the respondents/tenants are before this Court.

7. At the hearing, learned counsel for both the parties advanced arguments in line with their respective contentions.

8. Learned counsel for the respondents/tenants, i.e., the revision petitioners would contend as follows: “The Courts below failed to properly appreciate the facts & the evidence and failed to take note of the fact that there are no amenities like drinking water, toilet and parking facility to the petition schedule mulgi and that the building is more than 50 years old and that, therefore, there are no grounds for enhancement of rent or fixation of fair rent as claimed by the petitioner/landlady. The respondents/tenants could secure information from the Greater Hyderabad Municipal Corporation (GHMC) showing the value of the property @ Rs.5.20 Ps. per square foot. The said document is filed with the material papers of this revision petition. The fixation of fair rent @ Rs.55/- per square foot is incorrect and there is no such yardstick to be applied. The rental value is Rs.5.20 Ps. per square foot. On that basis,

the rent of the petition schedule mulgi could be only Rs.2,080/- per month. The Supreme Court in a number of decisions held that while determining the rent for the premises, the age of the building, the amenities provided and the improvements made to the building in the recent past have to be looked into. The Courts below have not considered the said and other relevant aspects. The Courts below exorbitantly enhanced the rent and fixed the fair rent @ Rs.22,000/- per month without any proper oral and documentary evidence on record and without properly appreciating the facts and the evidence.'

9. *Per contra*, learned counsel for the petitioner/landlady, while supporting the concurrent findings in the orders of the Courts below, contended as follows: 'The well reasoned orders of the Courts below do not warrant interference. Except contending that the findings are incorrect, no legal questions are raised in this revision petition. When the findings recorded on proper appreciation of facts and evidence are possible and plausible, this Court exercising revisional jurisdiction will not interfere with such well considered findings recorded on the factual issues involved in the matter as the scope of revisional jurisdiction is very limited. There are no irregularities, illegalities or infirmities, much less, legal infirmities calling for interference. In a revision of this nature, this Court will not go into factual aspects and re-appreciate the facts and evidence. The Courts below properly appreciated the facts and evidence and arrived at correct conclusions. The Courts below considered the location of the property and the fact that the rent as was existing 14 years back was being paid by the 1st respondent/tenant as on the date of the institution of the rent control case and considered all the other relevant aspects besides the increase in property and rental values before fixing the rent in respect of the petition schedule mulgi and that in the

facts and circumstances of the case, the said rent is just, fair and reasonable viewed from any angle. Therefore, any of the contentions of the respondents/tenants/revision petitioners do not merit consideration. Hence, the revision petition, which is devoid of merit, is liable to be dismissed'.

10. Before proceeding further, it is necessary to refer to the following decisions relied upon by the learned counsel for the revision petitioners:

1. **Ramesh Kumar Jain Vs. Ghansyam Das Rathi and another¹**
2. **Yashoda Devi Sarada and another Vs. Poornima Dresses, rep. by its Partner Mr. Padamshi²**
3. **Lekh Raj Vs. Muni Lal and others³**
4. **Vinukonda Venkata Ramana Vs. Mootha Venkateswara Rao and another⁴**
5. **Mohd. Ataur Rehman Khan (died) by L.Rs. Vs. Mohd. Kamaluddin Ahmed & another⁵**

10.1 The decisions in **Ramesh Kumar Jain (1 Supra)** and **Yashoda Devi Sarada (2 Supra)** are relied upon in support of the proposition that powers of revision of this Court under Section 22 of the Act may be wider than those powers under Section 115 of the Civil Procedure Code, 1908, but such powers do not enable this Court to reappraise the evidence and that the Court will interfere with the findings recorded by the learned Principal Rent Controller only if they are shown to be perverse or not based on evidence on record or based on irrelevant considerations.

10.2 In **Lekh Raj Vs. Muni Lal and others (3 Supra)**, the facts show that the roof of the shop in dispute has fallen down during the pendency of the revision petition. To take note of the subsequent events, a request was made to appoint a Commissioner. The said petition was allowed. The

¹ 2011 (4) ALT 143

² 2011 (3) ALT 570

³ AIR 2001 SUPREME COURT 996

⁴ AIR 2002 ANDHRA PRADESH 52

⁵ 1987 (1) ALT 216

Supreme Court observed that in the facts and circumstances, it cannot be said that in allowing such application for appointment of a Commissioner, the High Court exceeded in its revisional jurisdiction. In this decision, the Supreme Court's conclusions in para 21 are as follows:

“(1) On the facts and circumstances of this case, where fresh evidence was permitted to be brought on the record, reversing of the finding of fact by the High Court, while exercising Revisional jurisdiction, cannot be said to be such that it acted beyond its jurisdiction vested to it under the law.

(2) Once, Court could bring on the record, subsequent fact, event or happening, which has direct bearing on the issues or relief claimed, on the facts and circumstances of this case, then the High Court committed no error of jurisdiction to permit the Commissioner report to be placed on the record and then on which to rely while exercising its revisional power under sub-section (5) of Section 15 of the aforesaid Act.”

10.3 The decision in **Vinukonda Venkata Ramana (4 Supra)** is relied upon in support of the proposition that taking of the additional evidence in the rent control revision is not barred. In this decision, the Full Bench of this Court, while answering the questions referred to it, held as follows:

“1. The Full Bench decision of this Court in P. N. Rao v. K. Radhakrishnamacharyulu, AIR 1978 AP 319, is no longer a good law having regard to the decision of the Apex Court in Dakaya v. Anjani, AIR 1996 SC 383.

2. The question whether default made subsequent to the filing of the eviction petition can be made a ground for ordering eviction is answered in affirmative subject to the fulfilment of conditions laid down in S. 11 of the Act.

3. There is no bar in taking additional evidence in revision filed under S.22 of the Act.”

10.4 The decision in **Mohd. Ataur Rehman Khan (died) by L.Rs. (5 Supra)** is relied upon in support of the proposition that fair rent can be fixed on

the basis of rents prevailing in the locality and are being paid for accommodation similar to the petition schedule accommodation.

11. Learned counsel for the respondents/tenants relied upon the following decisions:

1. **Gandhe Vijay Kumar Vs. Mulji**⁶
2. **Satish Kumar Gupta Etc. Etc. Vs. State of Haryana & ors. Etc.**⁷
3. **Govt. of Karnataka and Anr. Vs. K.C. Subramanya and Ors.**⁸
4. **Suresh Gir Vs. K. Sahadev**⁹
5. **M/s. Boorugu Mahadev and Sons and Anr. Vs. Sirigiri Narasing Rao and Ors.**¹⁰
6. **Hindustan Petroleum Corporation Ltd Vs. Dilbahar Singh**¹¹

11.1 Gandhe Vijay Kumar (6 Supra) is relied upon in support of the following propositions: ‘The High Court, in its exercise of its revisional jurisdiction under the Rent Control laws, shall be entitled to set aside the impugned order only if it is not legal or proper. Before doing so, the High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it. A finding of fact recorded by Court/authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous and if allowed to stand, it would result in gross miscarriage of justice, it is open to correction because it is not treated as a finding according to law.’ In this decision, it is also held that the Rent Control Act does not entitle the High Court to interfere with the findings of fact recorded by the first appellate Court/first appellate authority because on reappreciation of the evidence, its view is different from that of the Court/authority below.

⁶ 2017 (8) SCALE 388

⁷ Order, dated 21.02.2017, passed by the Supreme Court of India, in Civil Appeal Nos.1587-1636 of 2017

⁸ (2014) 13 SCC 468

⁹ 1998 (1) ALD 25 (DB)

¹⁰ AIR 2016 Supreme Court 433

¹¹ 2014 AIR SCW 5018

11.2 Satish Kumar Gupta Etc. Etc. Vs. State of Haryana & ors. Etc. (7 *supra*) is relied upon in support of the proposition that unless a case is made out for permitting additional evidence, additional evidence shall not be permitted.

11.3 Govt. of Karnataka and Anr. Vs. K.C. Subramanya and Ors. (8 *Supra*) is relied upon in support of the proposition that additional evidence can be permitted only if the evidence sought to be produced could not be produced at the stage of trial in spite of the exercise of due diligence and that evidence could not be produced for the reason that it is not within the knowledge of the person producing the evidence.

11.4 Suresh Gir Vs. K. Sahadev (9 *Supra*) is relied upon in support of the following propositions: 'Sub-sections (2) to (4) of Section 4 of the Act do not get revived by reason of the subsequent pronouncement of Supreme Court in **Sant Lal Bharti's case**¹². Though sub-sections (2) to (4) of Section 4 of the Act have been declared as unconstitutional, sub-section (1) still survives and it is open to the Rent Controller to entertain the application for fixation of fair rent and decide the same.'

11.5 M/s. Boorugu Mahadev and Sons and Anr. Vs. Sirigiri Narasing Rao and Ors. (10 *Supra*) is relied upon in support of the proposition that the factual findings recorded by the appellate authority are binding on the High Court while deciding the revision petition when such findings do not suffer from any jurisdictional error, which alone would entitle the High Court to interfere.

12. I have carefully gone through the decisions cited. There is no dispute with the legal propositions and also the scope and ambit of jurisdiction of this Court, which is succinctly laid down in the

¹² AIR 1988 SC 485

constitutional Bench decision of the Supreme Court referred to supra (11 supra).

13. Reverting to the facts of the case, it is to be first noted that there is no dispute with regard to the jural relationship and also the quantum of rent, as on the date of the institution of the petition by the landlady for fixation of fair rent. It is also not in dispute that the rent @ Rs.425/- was being paid since the year 1992 i.e., since 22 years. More than two decades period had elapsed since 1992. Yet, there is no increase of monthly rent despite the fact that the petition for fixation of fair rent was instituted in the year 2014. The petition schedule mulgi is leased out for non-residential purpose and that the tenant is carrying on business in the said premises is also not in dispute. There are no amenities like water tap connection and toilet to the petition schedule mulgi is also not in dispute. The building is a sufficiently old building and in the petition schedule mulgi, the same tenant is continuing since 1968 is not in dispute. The landlady sought fixation of fair rent @ Rs.40,000/- per month. The respondents/tenants/revision petitioners herein while resisting the said request of the landlady contend before this Court that fixation of fair rent @ Rs.5.20 Ps per square foot, i.e., @ Rs.2,080/- per month would be reasonable and that the fair rent fixed by the Courts/authorities below at Rs.22,000/- per month is exorbitant and that the order of the appellate Authority confirming the order of the learned Principal Rent Controller is liable to be set aside. The landlady did not prefer any appeal obviously being satisfied with the aforementioned rent fixed as fair rent for the schedule building.

14. The criteria that were originally fixed under the statutory provisions i.e., under sub-sections (2) to (4) of Section 4 of the Act were held to be illusory on account of passage of time and, therefore, the said

provisions were struck down by this Court in the decision in the case of **Suresh Gir Vs. K.Sahadev**¹³. Subsequently, the legislature has not made any amendments to the provisions of the Act and, therefore, no statutory criterion are now available after striking down of sub-sections (2) to (4) of Section 4 of the Act. It is now not disputed before this Court that for the determination of the fair rent, due regard must be had to the aspects like - the locality, the age & nature of the building, the quality of accommodation, amenities like electricity & water connection etcetera, fair market value and prevailing rents in the same locality for buildings similarly situated etcetera besides the other factors, which may be peculiar to the case.

15. Coming first to the aspect of the area or locality of the premises, it is an admitted, undisputed and established fact that the petition schedule mulgi is situated in a centrally located business centre and well known commercial area of Secunderabad. In the same locality, several business establishments, both wholesale and retail, are located and that businesses in various products and commodities are being carried on in that locality is borne out by record. It is also not in dispute that the schedule building in which the petition schedule mulgi is a part is very close to Subash Road, M.G. Road and Kingsway, and is easily accessible; and, is at a walkable distance from Ranigunj Bus Depot. The respondents are not willing to vacate the petition schedule property and want to continue their business in the petition schedule mulgi. They are carrying on their business in the same mulgi since 1968 having gained the sufficient good will. Therefore, it can safely be concluded that the petition schedule mulgi is in a centrally located well known commercial locality of Secunderabad and is well-suited for the business of the

¹³ 1998 (1) ALD 25

respondents/tenants/revision petitioners and that they are running their business profitably and had acquired good will for the business they are carrying on in the petition schedule mulgi.

16. Coming next to the plinth area and topographical details, it is not in dispute that its plinth area is 400 square feet. It is undisputed that it has main road on its North and a passage on its South. RW1 admitted that the width of the road is 60 feet and that there is parking place for cars by the side of the subject shop and that there is parking place for scooters in front of the subject shop.

17. Dealing with the evidence, it is to be noted that PW1, in her deposition, reiterated her pleaded case and maintained her stand in the cross-examination. PW2, who is the brother of the petitioner/landlady supported her case and also maintained his stand in his cross-examination. Both the PWs.1 & 2 denied the suggestion that the schedule building is in a dilapidated condition. PW3 is the person who is said to be placed in-charge of the entire building known as 'AZIZ MANSION'. He also supported the case of PW1. In his cross-examination, it is elicited that he stated in his chief examination that M/s. Supreme Bearings (India) are paying rent @ Rs.50/- per square foot, totalling Rs.20,000/- per month. PW4 deposed that he is a partner of M/s. Supreme Bearings (India), which is carrying on business in sale of industrial bearings in Shop in ground floor bearing No.5-5-88 admeasuring 400 square feet in the same building known as 'AZIZ MANSION' and that his landlord is the uncle of the present petitioner/landlady and that he is carrying business as a partner of the above firm since more than 25 years and that his firm is at present paying Rs.20,000/- per month towards rent and that he is also carrying on business in another shop admeasuring 148 square feet in the same

building and paying rent @ Rs.11,100/- per month to his landlord. He filed, in his evidence, two rent receipts - exhibits X-1 and X-2, dated 19.09.2015 and 05.10.2015. He maintained the stand in cross-examination and denied the suggestion that he came to give evidence at the instance of PW.1 and that the said exhibits are prepared for the purpose of the present case. PW5 is a tenant of another shop in the same building known as 'AZIZ MANSION' but under a different landlord, who is the brother of the present petitioner/landlady. He deposed that he is proprietor of M/s.Sanskriti Engineering Corporation and that he is carrying on business in sale of power tools and its spares in the ground floor mulgi of about 60 square feet in the same building 'AZIZ MANSION' and that he is paying rent of Rs.4,000/- per month and that the landlord is issuing receipts to him. And, in his evidence, Exhibits X-3 and X-4, dated 08.07.2014 and 28.10.2015, were marked. In his cross examination when it was suggested to him that he was deposing at the instance of PW1 and that the said exhibits are prepared for the purpose of the present case, he denied the said suggestions.

17.1 RW1 also deposed in line with the defence of the respondents/tenants and maintained his stand in the cross-examination. Insofar as the amenity of water is concerned, he stated in his cross-examination verbatim as follows:

“It is true that as per photographs marked under Ex.P-8 to P-10 shows that water is stored in drums for providing water to the tenants.”

Be it noted that the tenants failed to produce any record related to their business, like income tax returns, sales tax returns, account books, if

any, to who their business turnover and net income. RW1 further deposed verbatim as follows in his cross-examination:

“It is true that the road in front of petition schedule property is a 60 feet road. It is true by the side of petition schedule property, there is a car parking as is evident from Ex.P-5 and P-6 photographs. It is true that by the side of my mulgi there is a chat bhandar. Ex.P-5 and P-6 show that there is scooter parking in front of the petition schedule property. It is true that M/s. Supreme Bearings (India) is paying Rs.20,000/- per month as rent. It is true that the proprietor of M/s.Sanskriti Engineering Corporation is paying rent at the rate of Rs.15,000/- per month. There is a shop by name Megacity. It is located 6 mulgies away from the petition schedule property. My brother is the owner of the above said mulgi. I have no idea about the area of the said mulgi of my brother in which the tenant is paying Rs.40,000/- as rent to my brother.”

17.2 The above evidence brought on record makes it manifest that there is parking facility for both two wheelers and four wheelers near the petition schedule property and that other tenants in occupation of similar accommodations as that of the petitioner schedule mulgi are paying substantial amounts as rents. Having analysed the evidence and after taking into consideration the situational/location advantage of the property, the fair market value, the prevailing rents in the same locality for the shops similarly situated, the size and the quality of accommodation and other factors, this Court finds that both the Courts are justified in fixing the rent for the subject premises @ Rs.22,000/- per month as fair rent. In **Ratan Arya v. State of Tamilnadu and another**¹⁴, the Supreme Court held that the courts while fixing the rental values can take judicial notice of enormous and manifold increase of rents throughout the country, particularly, in urban areas.

¹⁴ AIR 1986 SC 1444

18. The Constitution Bench of the Supreme Court stated as follows the law relating to exercise of jurisdiction of the High Court while deciding revision in rent matters under the Rent Control Act in the case of **Hindustan Petroleum Corporation Ltd Vs. Dilbahar Singh (11 Supra)**.

“45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of re-consideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

In view of the settled legal position, this Court while exercising revisional powers/jurisdiction under the rent control law shall confine itself to the

aspects of legality, regularity and propriety of the order impugned before it. Having carefully examined the pleadings and the evidence, this Court does not find any illegality or irregularity or impropriety either in appreciation of the facts or the evidence by the Court belows and hence, finds no reason calling for interference. On the above analysis, this Court finds that the order of the Court below is justified in the facts and circumstances of the case and that therefore, the revision petition is liable to be dismissed.

19. Before parting with the case, it is necessary to mention that the respondents/tenants filed C.R.P.M.P.No.5832 of 2017 along with a document viz., a letter, dated 10.03.2017, issued by the GHMC for reception of the same additional evidence in this revision petition. It is urged by their learned counsel that as per the said document issued by the GHMC the value of the subject property is Rs.5.20 ps. per square foot. The learned counsel while opposing the tenants' request for reception of additional evidence contended that on what basis and by whom the said value was mentioned in the said document is not known to anybody and that what enquiries were made and what information was collected by the GHMC before the fixing the values of properties is also not known and that as to who was the officer of the GHMC enjoined with the duty of fixing the value as mentioned in the said document is also not known. Be that as it may. As no valid explanation is offered for not producing the said document at the earliest opportunity or at least when the matter is pending before the Court below, that is, the appellate authority, this Court by a separate order made today dismissed the said petition, which is filed for reception of additional evidence. Nonetheless, it is necessary to state that mere production of a document by the tenants would be of no avail as mere marking of a document during the

hearing/pendency of this revision petition is no proof of the contents of the same and that at this revisional stage the respondents/tenants who are guilty of laches cannot be given an opportunity to prove the document belatedly produced by remitting the matter to the original court at this distance of time.

20. Accordingly, the Civil Revision Petition is dismissed. The revision petitioner/tenant is granted two months time for payment of arrears, if any, as per the fair rent fixed under the orders, which are confirmed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 25th October, 2017

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THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**CIVIL REVISION PETITION No.1682 of 2017**Date: 25th October, 2017

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