IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.4835 of 2011
and 1973 of 2012

N.Vijayalakshmi
Rep. By her Power of Attorney,
N.Parthasarthy .. Petitioner in
C.R.P.No.4835 of 2011

M.Ramakrishna
Smart Tailors,
New Nos.5 and 7, (Old Nos.3 & 4),
Raghaviah Road, T.Nagar,
Chennai 600 017. .. Petitioner in
C.R.P.No.1973 of 2012

Vs.

M.Ramakrishna
Smart Tailors,
New Nos.5 and 7, (Old Nos.3 & 4),
Raghaviah Road, T.Nagar,
Chennai 600 017. .. Respondent in
C.R.P.No.4835 of 2011

N.Vijayalakshmi
Rep. By her Power of Attorney,
N.Parthasarthy .. Respondent in
C.R.P.No.1973 of 2012

PRAYER: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act 18 of 1960, against the judgment and decree dated 14.02.2011 made in R.C.A.Nos.361 and 583 of 2005 on the file of the VIII Small Causes Judge, Chennai, confirming the fair and decretal order dated 31.01.2005 made in R.C.O.P.No.1046 of 2004 on the file of the XII Small Causes Judge, Chennai.

In C.R.P.No.4835 of 2011

For Petitioner : Mr.N.Premkumar

For Respondent : Mr.P.Sunil
for Mr.T.Viswanatha Rao

In C.R.P.No.1973 of 2012

For Petitioner : Mr.P.Sunil
for Mr.T.Viswanatha Rao

For Respondent : Mr.N.Premkumar

COMMON O R D E R

The Civil Revision Petitions are filed against the judgment and decree dated 14.02.2011 made in R.C.A.Nos.361 and 583 of 2005 on the file of the VIII Small Causes Judge, Chennai, confirming the fair and decretal order dated 31.01.2005 made in R.C.O.P.No.1046 of 2004 on the file of the XII Small Causes Judge, Chennai.

2. In both the Civil Revision Petitions, the parties and the issues are one and the same and hence, they are disposed of by this common order. For the sake of convenience, the parties are referred to landlady and tenant.

3.**Facts of the case:**

According to the landlady, she is owner of the petition premises. The tenant is in occupation of shop portion in the ground floor of the premises bearing new Door Nos.5 and 7 (Old Door Nos.3 and 4), Raghaviah Road, T.Nagar, Chennai 600 017 for non-residential purpose on a monthly rent of Rs.1850/- exclusive of electricity charges. The petition building is situated in very important commercial locality and very near to several business establishments such as shopping malls, Textile Show rooms, Jewellery marts, offices of both the Government and Private, bus stand, market, schools and Kalyana Mandapam. The construction of the petition building is Type - I construction. The superstructure is constructed in Cement mortar, RCC roofing, cement mortar flooring, rolling shutter and cement plastered walls. The land value of the petition premises is Rs.60 lakhs per ground and the landlady claimed fair rent to be fixed at Rs.4842/- p.m.

4.The tenant filed counter statement and submitted that the landlady purchased the petition premises in the year 2004 and no repair work was done for the building. Only the tenant has carried out the repairs. The tenant stated that the petition premises is situated in an interior residential area of T.Nagar far away from the important places. The property faces a large playground. The property is not in the bus route. The property is situated close to Mutt and other religious institutions. No basic amenities are provided except electricity amenities. There is no Schedule – I amenities in the petition premises. The petition premises is ordinary RCC structure without any wood work. The age of the building is 35 years and depreciation has to be calculated at 1½ %. The tenant denied the value of the land is Rs.60 lakhs per ground. According to the tenant, the value of the land is Rs.20 lakhs per ground. The landlady has purchased the petition property in January 2004 and the tenant has produced certified copy of the sale deed. The plinth area with RCC roofing is only 240 sq.ft. The tenant submitted that the fair rent claimed by the landlady is exorbitant.

5.Before the learned Rent Controller, on behalf of the landlady, her power agent was examined as P.W.1 and one Chellaiah

Sarathy, the Engineer was examined as P.W.2 and marked four documents as Exs.P1 to P4. On behalf of the tenant, he himself was examined as R.W.1 and one Deenatha Rao, the Engineer was examined as R.W.2 and marked five documents as Exs.R1 to R5. One Thiru.Venkataraman was examined as Court witness C.W.1 and the xerox copies of the guideline value register maintained at the T.Nagar Sub-Registrar Office were marked as Exs.C1 and C2.

6.The learned Rent Controller, considering the pleadings, oral and documentary evidence, fixed the fair rent at Rs.2623/- p.m.

7.Aggrieved by the fair and decretal order dated 31.01.2005, the landlady filed R.C.A.No.361 of 2005 for enhancement of fair rent and tenant filed R.C.A.No.583 of 2005 for reduction of fair rent fixed. The learned Appellate Authority independently considering the pleadings, oral and documentary evidence and order of the learned Rent Controller, dismissed both the appeals filed by the landlady and tenant respectively, confirming the order of the learned Rent Controller.

8.Against the common judgment and decree dated 14.02.2011 made in R.C.A.Nos.361 and 583 of 2005, C.R.P.No.4835 of 2011 is filed by the landlady and C.R.P.No.1973 of 2012 is filed by the tenant respectively.

9.Heard the learned counsel for the landlady as well as the tenant and perused the materials available on record.

10. Both the learned counsel appearing for the landlady and tenant submitted that they are restricting their arguments only with regard to land value and they are accepting the facts of the case with regard to the cost of construction, basic amenities, depreciation and Schedule-I amenities. The Courts below have given cogent and valid reason for arriving at the said findings and there is no reason or circumstances warranting interference by this Court.

11. From the order of the learned Rent Controller and the learned Appellate Authority, it is seen that the Courts below have properly considered and appreciated the facts of the case. As far as the land value arrived at is concerned, the learned Rent Controller fixed the land value at Rs.22 lakhs per ground and the same was confirmed by the learned Appellate Authority. The Courts below have arrived at this value based on the values given in the certified

copies of the Sale deed Nos.175/2004 and 192/2004 produced and marked by the tenant as Exs.R1 and R2 through which landlady purchased the petition premises. The two sale deeds through which landlady has purchased the petition premises were referred to the Collector, Stamps by the Sub Registrar, T.Nagar under Section 47(A) of the Indian Stamp Act, as according to the Sub Registrar, the sale amount mentioned in the two sale deeds do not reflect correct market value. On such reference, the Collector after following the procedure contemplated, under Section 47(A) of the Indian Stamp Act, fixed the value of the land at Rs.1600/- per sq.ft. The Courts below erred in not accepting the market value fixed by the Collector, Stamps and has taken only the value mentioned in the two sale deeds through which landlady purchased the petition premises.

12.In view of the failure on the Courts below to take into account the value fixed by the Collector at Rs.1600/- per sq.ft. and the endorsement made in the sale deeds for collection of deficit stamp duty, the value of the land fixed by the Courts below is to be modified. Taking into consideration the Collector, Stamps, who is the competent Authority has fixed the value of the land at Rs.1600/- per sq.ft. which has to be taken as correct market value for calculating the fair rent in the present petition. The market value fixed by the Collector is more than the guideline value as per the Court Exs.C1 and C2 marked through the Court witness. Taking Rs.1600/- per sq.ft as market value, the value of the land per ground is Rs.38,40,000/-. Taking market value at Rs.38,40,000/- per ground, the fair rent is calculated as follows:

Calculation :

1.Cost of construction:	
Ground floor R.C.C. built-up extent	
241.5 sq.ft. X Rs.350	Rs.84525.00
2.Basic Amenities at 5%	
84525 X (5/100)	4226.00

	88751.00
3.Depreciated value at 1% for 35 years	
88751 X 0.703	62392.00
4.Land value at Rs.38,40,000/- per ground	
$\frac{215.25 \times 38,40,000}{2400}$	344400.00
5.Total value of land and building	406792.00
6.Schedule-I amenities @ 1%	
406792 X 1/100	4067.92

7.Total value	410859.92

At 12% annual rent value, the fair

rent per month is 410859.92 X 12/100 X 1/12

= Rs.4108.59 rounded off to Rs.4109/-.

Thus, the fair rent is fixed at Rs.4109/- modifying the fair rent fixed by the Courts below. In all other aspects, the order and judgment of the Courts below are confirmed.

13. In the result, C.R.P.No.4835 of 2011 filed by the landlady is partly allowed fixing the fair rent at Rs.4109/- payable from the date of filing of the petition and C.R.P.No.1973 of 2012 filed by the tenant is dismissed. No costs.

11.01.2018
(1/9)

Index :: Yes/No

Speaking/Non speaking order

gsa/kj

To

1.The XII Small Causes Judge
Chennai.

2.The VIII Small Causes Judge
Chennai.

V.M.VELUMANI, J.

gsa/kj

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