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.4840 of 2011
and 1974 of 2012

N.Vijayalakshmi
Rep. By her Power of Attorney,
N.Parthasarthy .. Petitioner in C.R.P.No.4840 of 2011

1.B.Sahadevan
2.B.Krishna Raja
3.B.Thulasimani

"Balan Tea stall"
New Nos.5 and 7 (Old Nos.3 and 4)
Raghavaiah road, T.Nagar
Chennai-600 017. .. Petitioners in C.R.P.No.1974 of 2012

Vs.

1.B.Sahadevan
2.B.Krishna Raja
3.B.Thulasimani

"Balan Tea stall"
New Nos.5 and 7 (Old Nos.3 and 4)
Raghavaiah road, T.Nagar
Chennai-600 017. .. Respondents in C.R.P.No.4840 of 2011

N.Vijayalakshmi
Rep. By her Power of Attorney,
N.Parthasarthy .. Respondent in C.R.P.No.1974 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.367 and 584 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.1548 of 2004 on the file of the XII Small Causes Judge, Chennai.

**In C.R.P.No.4840 of 2011**

For Petitioner : Mr.N.Premkumar

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

**In C.R.P.No.1974 of 2012**

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

For Respondent : Mr.N.Premkumar



**COMMON ORDER**



The Civil Revision Petitions are filed against the judgment and decree dated 14.02.2011 made in R.C.A.Nos.367 and 584 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.1548 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 tenants.

3.**Facts of the case:**

According to the landlady, she is owner of the petition premises. The tenants are in occupation of the 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 tenants 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 tenants carried out the repairs. The tenants 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 tenants denied the value of the land is Rs.60 lakhs per ground. According to the tenants, the value of the land is Rs.20 lakhs per ground. The landlady has purchased the petition property in January 2004 and the tenants produced certified copy of the sale deed. The plinth area with RCC roofing is only 239 sq.ft. The tenants 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 tenants, third respondent/tenant himself was examined as R.W.1 and one Deenatha Rao, the Engineer was examined as R.W.2 and marked three documents as Exs.R1 to R3. 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.2554/- p.m.

7.Aggrieved by the fair and decretal order dated 31.01.2005, the landlady filed R.C.A.No.367 of 2005 for enhancement of fair rent and tenants filed R.C.A.No.584 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 tenants 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.367 and 584 of 2005, C.R.P.No.4840 of 2011 is filed by the landlady and C.R.P.No.1974 of 2012 is filed by the tenants respectively.

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

10. Both the learned counsel appearing for the landlady and tenants 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 value given in the certified copy of the Sale deed No.192/2004 produced and marked by the tenants as Ex.R2 through which landlady purchased the petition premises. The said sale deed through which landlady has purchased the petition premises was 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 said sale deed 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 said sale deed 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 deed 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
239 sq.ft. X Rs.350 Rs.83650.00
2.Basic Amenities at 5%
83650 X (5/100) 4183.00
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87833.00
3.Depreciated value at 1% for 35 years
87833 X 0.703 61747.00
4.Land value at Rs.38,40,000/- per ground
$208.5 \times \frac{38,40,000}{2400}$ 333600.00

| | |
|---|---|
| 5.Total value of land and building | 395347.00 |
| 6.Schedule-I amenities @ 1% | |
| 395347 X 1/100 | 3953.47 |
| | --------------- |
| 7.Total value | 399300.47 |

At 12% annual rent value, the fair
rent per month is 399300.47 X 12/100 X 1/12
= Rs.3993/-.

Thus, the fair rent is fixed at Rs.3993/- 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.4840 of 2011 filed by the landlady is partly allowed fixing the fair rent at Rs.3993/- payable from the date of filing of the petition and C.R.P.No.1974 of 2012 filed by the tenants is dismissed. No costs.



11.01.2018
(6/9)

Index :: Yes/No

Speaking/Non speaking order

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**V.M.VELUMANI, J.**

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To

1.The XII Small Causes Judge
Chennai.

2.The VIII Small Causes Judge
Chennai.

C.R.P.(NPD)Nos.4840 of 2011
and 1974 of 2012



11.01.2018
(6/9)