

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.No.1345 of 2012

1.R.Balachandran

2.R.Thiagarajan

... Petitioners

Vs.

V.Murali

... Respondent

Prayer: Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act), Act 18 of 1960 as amended by Act 23 of 1973 against the order and decretal order dated 12.04.2010 passed in R.C.A.No.926 of 2006 on the file of the VII Small Causes Court, Chennai varying the order fixing the fair rent dated 10.08.2006 passed in R.C.O.P.No.877 of 2006 on the file of the XIV Court of Small Causes at Chennai.

For Petitioners: Mr.P.B.Balaji

For Respondent : No appearance

O R D E R

Challenging the judgment and decree order passed in R.C.A.No.926 of 2006 on the file of the 7th Judge, Court of Small Causes, Chennai, modifying the order passed in R.C.O.P.No.877 of 2006 on the file of the 14th Judge, Court of Small Causes, Chennai, the landlords have filed the above Civil Revision Petition under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

2.The landlords filed the Original Petition in R.C.O.P.No.877 of 2006 under Section 4 of the Act for fixation of fair rent. According to the landlords, the petition premises measuring an extent of 1350 sq.ft. is situate in 7th Floor, Spencer Plaza, Anna Salai, Chennai. The said premises was let out to the respondent for non-residential purpose on a monthly rent of Rs.15,000/-. The landlords claimed fair rent of Rs.30,773/- taking into consideration the value of the land at Rs.2 crores per ground.

3.The respondent/tenant remained exparte throughout the proceedings. Even in this Civil Revision Petition, the respondent has not appeared inspite of effecting paper publication.

4.The Rent Controller, taking into consideration the case of the petitioners, fixed the fair rent at Rs.12,292/-, which is lower than the contractual rent of Rs.15,000/-, which is being paid by the respondent/ tenant to the petitioners/landlords. While arriving at the said rent, the Rent Controller fixed the value of the land at Rs.75 lakhs per ground.

5.On the side of the petitioners/landlords, the Engineer was examined as P.W.1 and his report was marked as Ex.P1. The Rent Controller also fixed 15% towards basic amenities while fixing the fair rent. When the petition premises was let out for non-residential purpose, the Rent Controller should have fixed 22.5% towards basic amenities and not 15%. Challenging the order passed by the Rent Controller, the landlords filed an appeal in R.C.A.No.926 of 2006 on the file of the 7th Judge, Court of Small Causes, Chennai and the Appellate Authority modified the order passed by the Rent Controller by fixing the fair rent at Rs.17,222/- per month. While arriving at the said figure, the Rent Control Appellate Authority fixed the value of the land at Rs.1 crore per ground. However, fixed the basic amenities at 15%. Challenging the orders passed by the Courts below, the landlords have filed the above Civil Revision Petition.

6.Mr.P.B.Balaji, learned counsel appearing for the petitioners submitted that the orders passed by the Courts below fixing the fair rent at Rs.17,222/- is very much on the lower side for the reason that the property situate in a prime location in Chennai. The property situate at Anna Salai in Spencer Plaza. The property was let out for non-residential purpose. Such being the case, the Courts below should have calculated at the rate of 22.5% towards basic amenities instead of 15%.

7.It is pertinent to note that in order to substantiate the value of the land, the landlords have not produced any documents before the Courts below. In Ex.P1, Valuation Report of the Engineer, the Engineer has stated that the value of the land in the year 2006 would be Rs.2 crores per ground. In spite of the report filed by the Engineer, the petitioners/landlords should have produced documentary evidence to establish that the value of the land was Rs.2 crores in the year 2006. It cannot be disputed that the premises is situate in a prime location in Chennai. In such circumstances, I am of the view that, in the interest of justice, liberty should be given to the landlords to let in evidence and produce documents with regard to the value of the land. The Rent Control Appellate Authority also recorded that in the absence of any documentary proof produced by the landlords, the value cannot be fixed at Rs.1 crore per ground.

8.In these circumstances, I set aside the judgment and decree passed by the Rent Control Appellate Authority in

R.C.A.No.926 of 2006 and also the order passed by the Rent Controller in R.C.O.P.No.877 of 2006 and remit the matter back to the 14th Judge, Court of Small Causes, Chennai with a direction to decide the Original Petition in R.C.O.P.No.877 of 2006 afresh. The Rent Controller is directed to decide the Original Petition, on merits and in accordance with law, after giving opportunity to the landlords to produce oral and documentary evidences with regard to the value of the land. The 14th Judge, Court of Small Causes, Chennai is directed to dispose of the Original Petition in R.C.O.P.No.877 of 2006, on merits and in accordance with law, after giving notice to the respondent, within a period of six months from the date of receipt of a copy of this order.

9.In the result, the Civil Revision Petition is allowed.
No costs.

Sd/-
Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

To

- 1.The VII Judge, Small Causes Court,
Chennai.
- 2.The XIV Judge, Court of Small Causes,
Chennai.

Copy to:
The Section Officer,
V.R.Section, High Court,
Madras.

+1 cc to M/s.P.B.Ramanujam, Advocate,sr.95840.

Ssv(co)
krd 30/9

C.R.P.No.1345 of 2012

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