

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(NPD).No.4100 of 2015

1.M.Sekar
2.S.Thilagam

... Petitioners

vs.

Vishal Kapoor

... Respondent

PRAYER: Civil Revision petition filed under Article 227 of Constitution of India, to set aside the Judgment and decree dated 23.07.2015 passed in R.C.A.No.445 of 2014 on the file of the VIII Judge, (Small Causes Court), Chennai modifying the order dated 28.03.2014 made in R.C.O.P.No.407 of 2012 on the file of XI Judge, Small Causes Court, Chennai.

For Petitioners : Mr.Sandeep S. Shah

For Respondent : Mr.P.Sidharthan

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ORDER

The petitioners are the landlords who had filed R.C.O.P.No.1407 of 2012 under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act against the respondent. R.C.O.P.No.1407 of 2012 was filed fixation of fair rent.

The petitioners were receiving the rent of Rs.5,000/-. They wanted the fixed

fair rent of R.17,972/- for the rented premises. In the said proceedings, the

Rent Controller, one Chellai Sarathy was examined as P.W.1 and exhibits were marked as Exs.P.1 to P.4 . On behalf of the respondent, one Ajeez Maideen was examined as R.W.1 . Exs.R1 and R2 were marked.

2. The Rent Controller concluded that the fair rent to be paid by the respondent/tenant was Rs.8,292/- Aggrieved by the said order, the respondent/tenant preferred an appeal in R.C.A.No.445 of 2014.

3. The Rent Control Appellate Authority revised the fair rent to Rs.7110/- and directed the respondent to pay the amount together with interest at 12% p.a. Details of the calculations are as follows:-

FAIR RENT CALCULATION : -

RCC ground floor 409 .50 sq.ft. At Rs.444/- per sq.ft.	Rs.1,81,818/-
Acc 15% for basic amenities	Rs. 27,272/-

	Rs.2,09,090
Depreciation @ 1% for 55 years (0.5753 x 2,09,090/-)	Rs.1,20,289/-

Depreciated cost of building	Rs.1,20,289/-

Land Value (118.16 x 1,44,00,000/2400)	Rs.7,08,960/-

Total cost of land and building	Rs.8,29,249/-

Total value	= Rs.8,29,249/-

Monthly Fair rent @ 12% since being used for non-residential purpose amounts to Rs.8,292/-.

4. Aggrieved by the same, the petitioners/landlords have filed the present civil revision petition.

5. The learned counsel appearing for the petitioners-landlords drew my attention to the deposition of R.W.1 which reads as under:

“I have not gone through the landlord's engineer's sale deed pertaining to the same street. The land value in that area is more than Rs.1.5 crore per ground is denied.”

6. The learned counsel for the petitioners has relied upon the following decision of the Hon'ble Supreme Court :

- i) *S.Selva Singh vs. V.Gnanesh* 2010 (7) Mad LJ 74
- ii) *Alogopal Sah: A.M Surendar Sah : A.M.Sanjayakumar Sah vs. K.P.M.Musthaffa : K.P.M.Shagul Hameed and M.K.S.Siraj Unnissa, 2004 (2) Mad LJ 702*
- iii) *R.Ranga Babu : R.Mani Babuy : R.Madhu Sudhan Rao vs. A.R.Devendran, 2018(1) RCR(Rent) 601*

7. Per contra, the learned counsel for the respondent-tenant referred to cross examination of P.W.1, wherein P.W.1 has confirmed that width of the street is only 10 feet in the petition premises is incorrect and it is very difficult to move the vehicle from and out of the petition mentioned property and also do not have any parking facility in the said property.

8. The learned counsel for the respondent further submitted that the order passed by the Rent Control Appellate Court requires no interference.

9. I have considered the rival submissions made by the learned counsel for both sides.

10. The revised rent fixed by the Rent Control Appellate Authority, is only on account of the reduction in the land value for Rs.1,44,00,000/- per ground to Rs.1,20,00,000/-. However, no evidence has been produced by the respondent to substantiate that the land value of building was lesser than Rs.1,44,00,000/-. According to the Rent Control Appellate Court Ex.P3 will not always reflect the true market value of the property. Whereas in Ex.P.3 the value is given as Rs.1,44,00,000/- . The law is well settled that the market value of the property is to be arrived based upon the sample sale deed as well as the locational advantages. Hence, this Court considering the value found in Ex.P.4 and considering the locational advantages arrives the land value as Rs1,20,00,000/-. Thus, reduction in the land value for Rs.1,44,00,000/- to Rs.1,20,00,000/- has no basis. Therefore, the order of the Rent Control Appellate court requires interference. Hence, the impugned order of the Rent Control Appellate Court is set aside.

11. In view of the above, the order passed by the Rent Controller in R.C.O.P. No.1407 of 2012 is upheld. The respondent is therefore, directed to pay arrears of rent to the petitioner together with interest at the rate of 7.5% p.a.within a period of three months from the date of receipt of copy of this order.

12. Accordingly, the civil revision petition is allowed. No costs.

29.04.2019

Index : Yes/No
Internet : Yes/No
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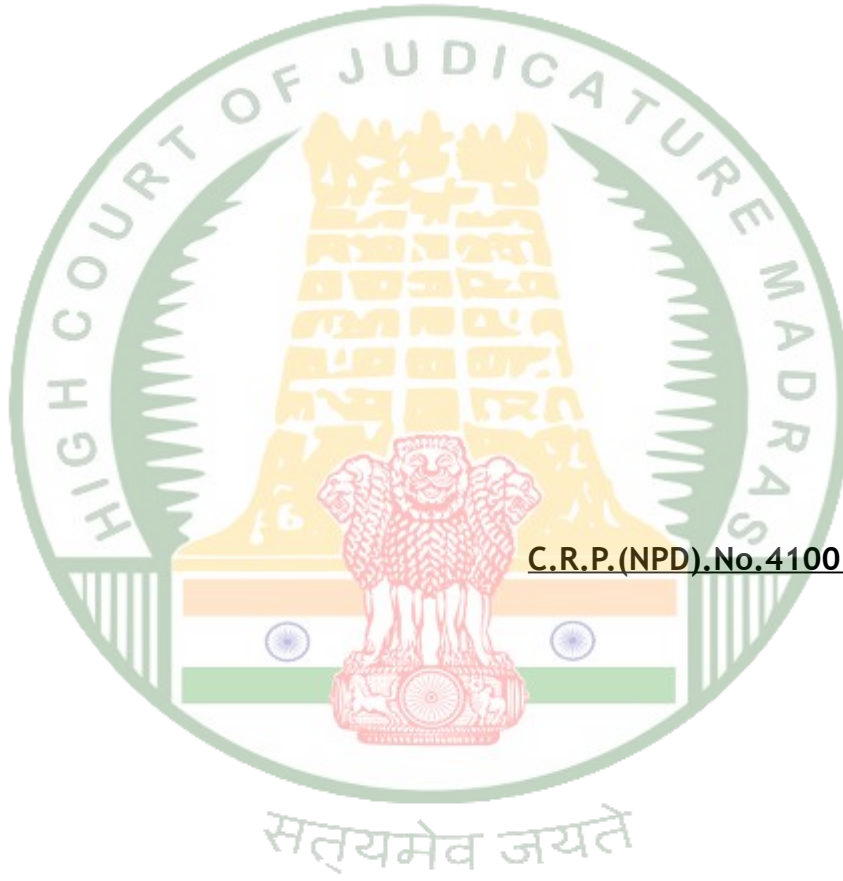
1. VIII Judge, (Small Causes Court), Chennai.
2. Judge, Small Causes Court, Chennai.

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C.SARAVANAN,J.

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