

CRP NPD No.2491 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2019

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRP (NPD) No.2491 of 2013

CRP (NPD) 2492 of 2013

1. Shantilal
2. S.Kanthilal
3. S.Lalith Kumar
4. S.Mahaveer Chand
5. S.Balchand
6. S.Veena Anilkumar Katrela ... Petitioners

Vs.

A. Rajan ... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 against the orders dated 10.04.2013 passed in RCA No.16 of 2012 by the Rent Control Appellate Authority/Subordinate Judge, Udagamandalam reversing the orders dated 14.09.2012 passed in RCOP No.35 of 2009 by the Rent Controller / District Munsif, Udagamandalam.

For Petitioners : Ms. AL Ganthimathi

For Respondent : Mr.S.Sabarish

for Mr.S.K.Rukunathan

CRP NPD No.2491 of 2013

ORDER

The civil revision petitioners are the landlords in RCOP No.35 of 2009 on the file of the Rent Controller/District Munsif, Udagamandalam. The landlords filed the above application for fixation of fair rent under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act (herein after referred to as "the Act") against the respondent/ tenant. The learned Rent Controller/District Munsif, Udagamandalam after analysing the evidence on record, fixed the fair rent for the petition mentioned premises as Rs.4,660/- per month vide his fair and decretal orders dated 14.09.2012. Aggrieved over the same, the respondent/tenant filed an appeal in RCA No.16 of 2012 before the Rent Control Appellate Authority/Subordinate Judge, Udagamandalam.

2. The learned Rent Control Appellate authority vide his fair and decretal order dated 10.04.2013, allowed the appeal and dismissed the RCOP No.35 of 2009. The main observations made by the Rent Control Appellate Authority is that the Rent Controller was not justified in taking the guideline value for fixing the fair rent and that in the absence of any documentary evidence to show the market value of the property, fair rent cannot be fixed. Aggrieved over the same, the present revision petition is filed by the landlords.

3. Ms.AL.Ganthimathi, learned counsel appearing for the revision petitioners/landlords contended that the Rent Control Appellate Authority cannot dismiss the application filed by the landlords under Section 4 of the Act to fix the fair rent merely on the ground that the Rent Controller fixed the fair rent on the basis of the guide line value.

4. She also drew the attention of this court to the evidence of the Advocate Commissioner, who deposed as PW2, wherein the Advocate Commissioner has clearly mentioned the value of the property per sq.ft. is Rs.490. She further contended that the guideline value in the instant case was marked as Ex.P1. The Junior Assistant working in the Sub Registrar's Office, Udagamandalam, who was examined as PW4 had clearly deposed that the guideline value is Rs.480/- per sq.ft. Her specific contention is that in the absence of contra evidence on the side of the respondent, the learned Rent Controller was right in taking up the guide line value for fixation of fair rent.

5. Per contra, Mr.S.Sabarish, learned counsel appearing for the

CRP NPD No.2491 of 2013

respondent/tenant contended that the Rent Controller cannot fix the fair rent merely based on the guideline value of the property and therefore, the Rent Control Appellate Authority was right in dismissing the application filed by the landlords under Section 4 of the Act.

6. In the instant case, one of the landlords examined himself as PW1. An advocate commissioner was also appointed by the court for fixation of fair rent on the application filed by the landlords. Accordingly, Mr.P.Narayanaswamy, learned Advocate Commissioner filed his report (Ex.C1) stating that the market value of the petition mentioned property is Rs.490/- per sq.ft. Mr.P.N.Chandrasekar, a civil engineer (PW3) had also in his report (Ex.P2) had indicated the market value of the property is Rs.490/- per sq.ft. The landlords have also examined Mr.Rajan, who is working as Junior Assistant in the Sub Registrar's Office, Udagamandalam as PW4 to show the guideline value of the property. Ex.P1 shows that the guideline value of the property on the date of filing of the petition was Rs.480/- per sq.ft. The learned Rent Controller took the guideline value of the property as the basis for fixing the fair rent for the petition mentioned property.

7. In the instant case, the landlord-tenant relationship

CRP NPD No.2491 of 2013

between the parties is not disputed. It is also evident from the records that the petition mentioned property is situated in the busy locality of Udagamandalam. The learned Rent Control Appellate Authority dismissed the application filed by the landlords under Section 4 of the Act on the ground that the guideline value of the land cannot be the basis for fixing the fair rent for the petition mentioned property and since the landlords did not adduce any other evidence to show the real market value of the petition mentioned property, the RCOP for fixation of fair rent is liable to be dismissed.

8. No doubt, it is true that the landlords did not adduce any sale deed to show the market value of the property. At the same time, we have to see as to whether any contra evidence was let in by the tenants to take a different view. In the instant case, except placing the oral testimony of the respondent and marking some photographs as Ex.R1, no other document like sample sale deeds have been marked to show that the value of the property is lessor than the guideline value, as shown in Ex.P1.

9. On the other hand, the landlords have produced guideline

CRP NPD No.2491 of 2013

value (Ex.P1) and the Junior Assistant working in the Sub Registrar's office, Udagamandalam was also examined to prove the same. The civil engineer (PW3) in his report (Ex.C2) has fixed the fair rent by indicating the market value of the property as Rs.490/- per sq.ft. Though a Full Bench of this court in ***Sakki and Company Vs. Sree Desingu reported in 2006(2) CTC 433*** had held that the guideline contained in the Basic Valuation Register maintained by the revenue department or the Municipality for the purpose of collecting necessary fee has no statutory base or force and that it cannot be a foundation to determine the market value mentioned there under. However, as already observed, the respondent/tenant did not adduce any contra evidence to the evidence adduced on the side of the landlords to show that the market value is much lower than the guideline value. He did not also file any report from an Engineer. In the circumstances, the Rent Controller was right in taking up the guideline value for fixing the fair rent of the premises. The learned Rent Control Appellate Authority has committed a gross error in dismissing the entire petition itself only on the ground that the Rent Controller had taken up the guideline value for fixing the fair rent, without adverting his attention that no contra evidence was adduced on the side of the respondent. Hence, the orders passed by the Rent Control Appellate Authority, Udagamandalam is liable to be set aside.

CRP NPD No.2491 of 2013

10. In the result,

(i) The civil revision petition is allowed. No costs.

(ii) The orders dated 10.04.2013 passed in RCA No.16 of 2012

by the Rent Control Appellate Authority/Subordinate Judge, Udagamandalam is set aside.

(iii) The RCOP No.35 of 2009 is restored and the orders dated 14.09.2012 passed in RCOP No.35 of 2009 by the Rent Controller / District Munsif, Udagamandalam is upheld.

29.07.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order
mst

To

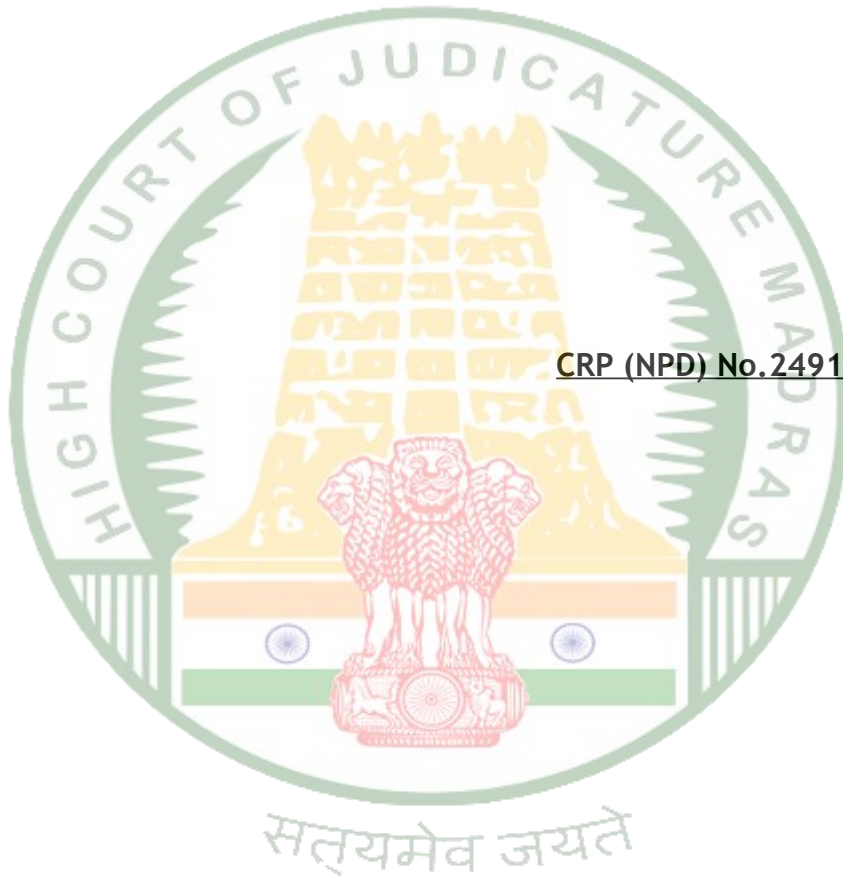
1. The the Rent Control Appellate Authority/Subordinate, Udagamandalam.

2. The Rent Controller / District Munsif, Udagamandalam.

WEB COPY

CRP NPD No.2491 of 2013

R.HEMALATHA,J.
mst



CRP (NPD) No.2491 of 2013

WEB COPY 29.07.2019