

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

**C.R.P (NPD).No.960 of 2015**

**and**

**M.P.No.1 of 2015**

S.R.Venkatesh

.. Petitioner

vs

R.Jeyakumar

.. Respondent

**Prayer:** Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Controller Act), against the Judgement and Decree dated 02.09.2014 made in R.C.A.No.99 of 2010 on the file of the VII Small Causes Court, (Rent Controller Appellate Authority) at Chennai confirming the Judgement and Decree dated 18.01.2010 made in R.C.O.P.No.1507 of 2007, on the file of the X Small Causes Court (the Rent Controller) at Chennai.

|                |                   |
|----------------|-------------------|
| For Petitioner | : Mr.P.Mathivanan |
| For Respondent | : Mr.P.B.Balaji   |

**ORDER**

The petitioner is aggrieved by the Fair and Decreetal order passed by the Rent Controller in R.C.O.P.No.1507 of 2007 vide order dated 18.01.2010 which has been confirmed by the Rent Controller Appellate Authority, Chennai vide order dated 02.09.2014 in R.C.A.No.99 of 2010. The petitioner is the tenant of the respondent/landlord.

2. The respondent/landlord has initiated the proceedings under Section 4 of the Tamil Nadu Buildings (Lease and Rent Controller) Act, 1960. The respondent/landlord claims that he had let out 400 Sq.ft., of area to the petitioner/tenant and that the rent fixed at Rs.4,500/- that was being paid was very low and therefore, requested the Rent Controller Court to fix a fair rent at Rs.20,851/- per month from the date of petition.

3. In the Petition, the respondent/landlord has stated that the property is approximately 65 years old. However, the tenant in his counter has stated that the respondent/landlord was guilty of suppressing the fact relied and the earlier rent control proceedings in H.R.C.No.2901 of 1963 and that the age of the building was more than 75 years old and that no other amenities has been given by the respondent/landlord barring Electricity

Connection.

4. The Petitioner/Tenant produced the Engineer Report dated 16.07.2009 issued by Mr.P.Anbarasan, who is an Approved Licensed Surveyor of corporation of Chennai wherein he has stated that the property was 60 years old and the title area under the occupation of the petitioner/tenant was 362 Sq.ft.

5. The petitioner/tenant however did not produce any other contra-evidence to substantiate his claim that the property rented out to him was 200 Sq.ft. The Rent Controller after considering the evidences on record, fixed the rent at Rs.13,143/- as a fair rent payable by the petitioner/tenant.

6. Aggrieved by the same, the petitioner/tenant preferred an appeal before the Rent Controller Appellate Court, which culminated in the impugned order resulting the dismissal of the appeal. Aggrieved by the same, the petitioner/tenant is before this Court.

7. The learned counsel for the petitioner submits that there were

material suppression of fact regarding the earlier proceedings in H.R.C.No.2901 of 1963 and therefore, the Rent Controller committed an error in accepting the respondent/land lord's case and the Rent Controller Appellate Court erred in rejecting the appeal filed by the petitioner/tenant. It is further submitted that the petitioner/tenant is only occupation of 200 Sq.ft and the property is without any amenities.

8. The learned counsel for the respondent/landlord submits that the order passed by the Rent Controller and the Rent Controller Appellate Authority is correct and does not require any interference under Section 25 of the Rent Control Act.

9. Heard both side counsels.

10. I considered the evidences brought on record. The scope of review under Section 25 of the Act is very limited. The Court has to merely see the correctness, legality or propriety of the decision passed by the Rent Controller and the Rent Controller Appellate Authority.

11. Court cannot at this stage appoint an Advocate Commissioner to conduct a fresh enquiry to find out whether the petitioner/tenant was in occupation of only 200 Sq.ft., as he himself did not chose to let in any independent evidence before the Rent Controller. The orders passed by the Rent Controller and the Rent Controller Appellate Court appears to be well reasoned and does not requires any interference.

12. The Rent Controller has fixed the rent at Rs.13,143/- and the conclusion is given are perfectly in tune with the evidences produced by the respondent. The only descrepancy which I am able to see is regarding the age of the rented premises.

13. Admittedly, the age of the building is said to be 65 years even as per the respondent/land lord whereas the conclusion has been arrived based on 60 years as per Exs.P1 and P2. Since the respondent/land lord had himself claims the age of the building to be 65 years, the conclusion of fair rent at 60 years deserves to be interfered. However, it only marginally impacts fair rent fixed. The order is modified accordingly. Accordingly, the fair rent is fixed as follows:

## CALCULATION:

|                                                                                                           |                |
|-----------------------------------------------------------------------------------------------------------|----------------|
| Building Value                                                                                            | Rs.85,070/-    |
| Basic Amenities                                                                                           | Rs. 4,253/-    |
| Depreciation @ 1% per year for 65 years – Depreciated value of Building – $0.52 \times \text{Rs.}89323 =$ | Rs.46,448/-    |
| Land Value                                                                                                | Rs.12,66,346/- |
| Total Value                                                                                               | Rs.13,12,794/- |

Fair Rent @ 12% = Rs.13,127.94 Per month.

Rounded off Rs.13,128/- Per month.

14. This Civil Revision Petition is partly allowed as above. No costs.

Consequently, the connected Miscellaneous Petition is also closed.

**24.06.2019**

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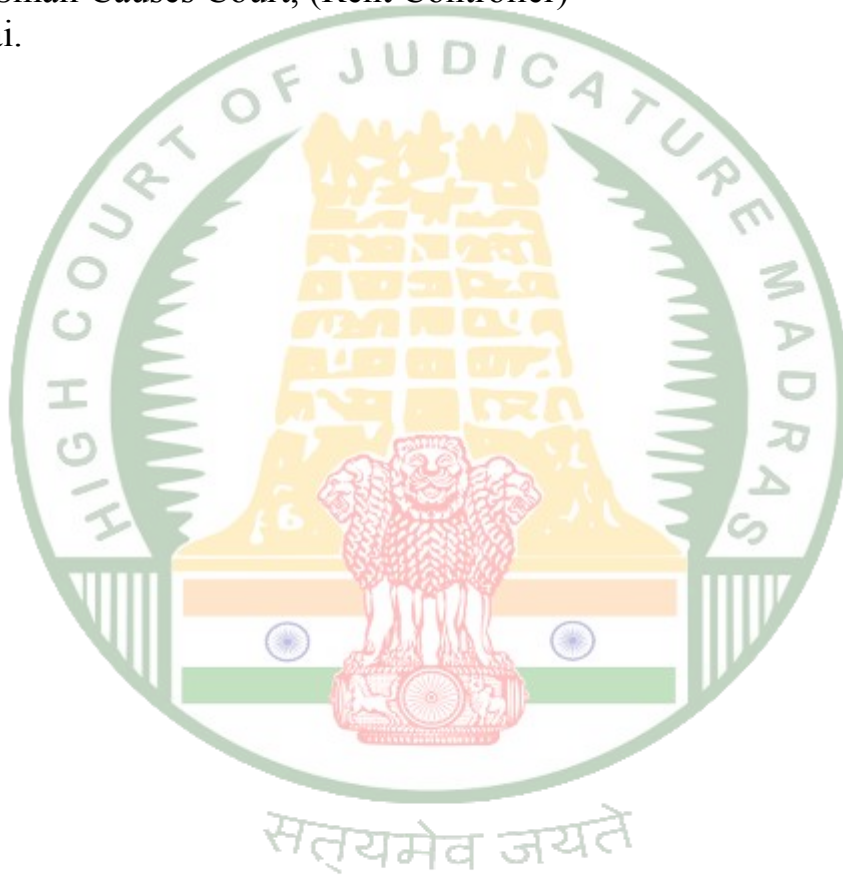
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To

- 1.The VII Small Causes Court, (Rent Controller Appellate Authority)  
Chennai.
- 2.The X Small Causes Court, (Rent Controller)  
Chennai.



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**C.SARAVANAN,J.**  
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C.R.P (NPD).No. 960 of 2015  
and  
M.P.No.1 of 2015

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