

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).Nos.2582 and 2583 of 2018

Ambika ...Petitioner in both CRPs

-VS-

Rajendran ...Respondent in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, to set aside the Judgment and Decree dated 27.06.2016 passed by the VII Judge, Small Causes Court, Chennai (Rent Control Appellate Authority) in RCA No.760 of 2007 affirming the Judgment and Decree dated 06.08.2007 passed by the Learned XVI Judge, Court of Small Causes, Chennai, in R.C.O.P.No.1043 of 2006.

For Petitioner : Mr.S.Shaji Paul
in both CRPs

For Respondent : Mr.S.Jaganathan
in both CRPs

COMMON ORDER

The above Civil Revision Petitions arise out of the Rent Control proceedings in R.C.O.P.No.1043 of 2006 which is a petition filed by the Landlady for fixing a fair rent with reference to the demised premises. The demised premises is a 150 sq.ft., shop portion in the ground floor of the premises situate at Thachi Arunachala Mudali Street, Mylapore, Chennai 600 004. The landlady filed an application for fixing the fair rent which according to her would be a sum of Rs.6,750/-, considering the fact that the building is only 50 years old and is in the heart of the city having several amenities in and around the properties, Schools, Colleges, Hospitals, etc.,

2.The said petition was resisted by the tenant by contending that the building is 50 years old and consisted of ground and first floor and taking into account the value in and around the area in which the tenant has calculated Rs.1,500/- per sq.ft. The fair rent according to the tenant is only a sum of Rs.907.50p. The learned Rent Controller taking into

consideration the evidence on record along with the petition had allowed the petition and fixed a fair rent of Rs.1,654/-. The learned Rent Controller had fixed the age of the building as 40 years and since there was a divergence in the view taken by the Engineers appointed on either side, the learned Rent Controller has arrived at a market value of Rs.76,82,400/- for the lands and ultimately fixed the fair and rent of Rs.1654/-. Challenging the said order, both the tenant and the landlady had filed a petition in RCA No.631 of 2012 and RCA No.760 of 2007 respectively. Pending RCA, an application was taken out by the landlady for appointment of an Advocate Commissioner since the two engineers report have divergence in calculation of the fair rent. The appellate authority was pleased to appoint an Advocate Commissioner, who had visited the property along with the Engineer. Unfortunately, the Advocate Commissioner had taken the guideline value of Dr.Radha Krishnan Salai which is 1 ½ K.m. from the petition premises to arrive at a monthly rent of Rs.22,226/-. Ultimately, the appellate authority has enhanced the fair rent to a sum of Rs.1,700/- per month. The Appellate Authority has cogently gone into the evidence

available on record and arrived at fair rent. Challenging the said order, the landlady has filed these Civil Revision Petitions.

3.The learned counsel would contend that the Advocate Commissioner, who is appointed by the Court, has arrived at the monthly rent of Rs.22,226/- and the appellate authority had fallen in error in not accepting the same and just increasing the rent of Rs.50/- and therefore, sought for the order to be set aside and the rent fixed by the Advocate Commissioner to be fixed for the demised premises. The same has been vehemently opposed by the learned counsel on behalf of the tenant. He would contend that the Advocate Commissioner had arrived at an astronomical figure of Rs.22,226/- which is nowhere in the vicinity of the suit property. He had also pointed out that the Engineer who had been appointed by the revision petitioner / landlady had himself fixed the fair rent of Rs.1800/- and therefore, the rent fixed by the Advocate Commissioner cannot be taken into account.

4.Heard the learned counsel appearing for the petitioner as well as the respondents and perused the material available on record.

5.It is seen that the learned Rent Controller/Appellate Authority has taken into account Ex.P3 - Sale Deed dated 27.04.2006 which was contemporaneous to the filing of the RCOP Proceedings and it relates to a property which is situate at Santhome High Road, which is close to the petition premises where the land value is calculated at a sum of Rs.76,82,400/- in the year 2006. The figure arrive at by the Advocate Commissioner cannot be taken into account since the property that has been taken as a benchmark is nowhere near the property which is the demised premises. I find no infirmity in the order passed by the learned Appellate Authority and further siting in revision, I cannot re-appreciate the evidence on record.

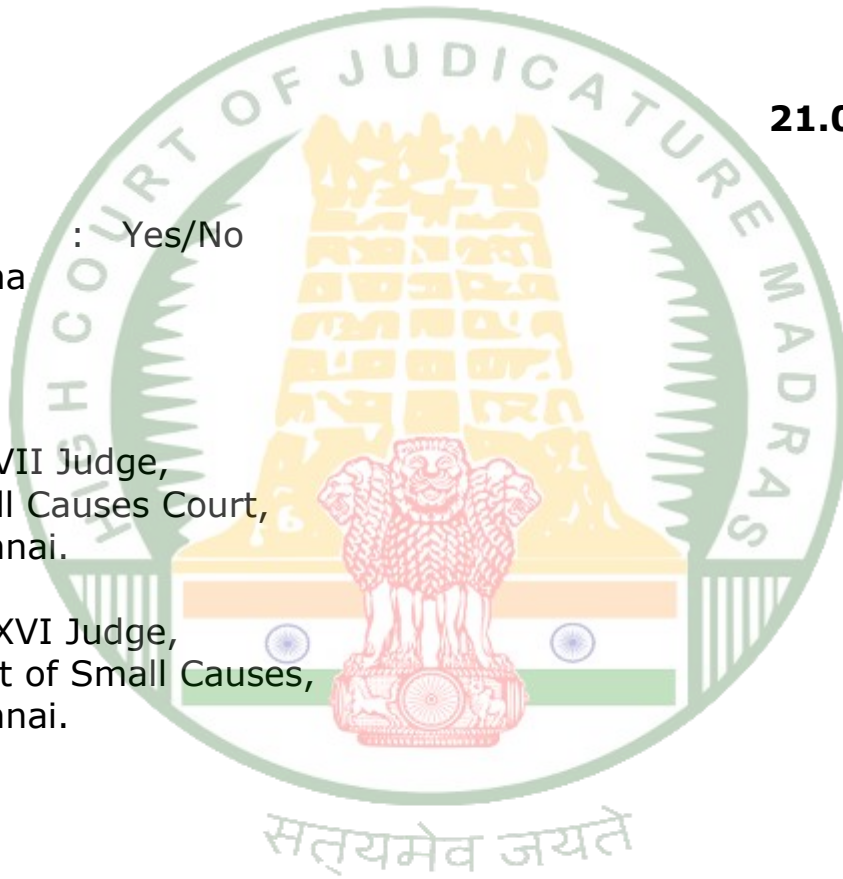
Accordingly, these Civil Revision Petitions are dismissed.
The order passed by the learned Appellate Authority therefore
fixing the fair rent of Rs.1,700/- is confirmed. No costs.

21.02.2019

Index : Yes/No
mps/rna

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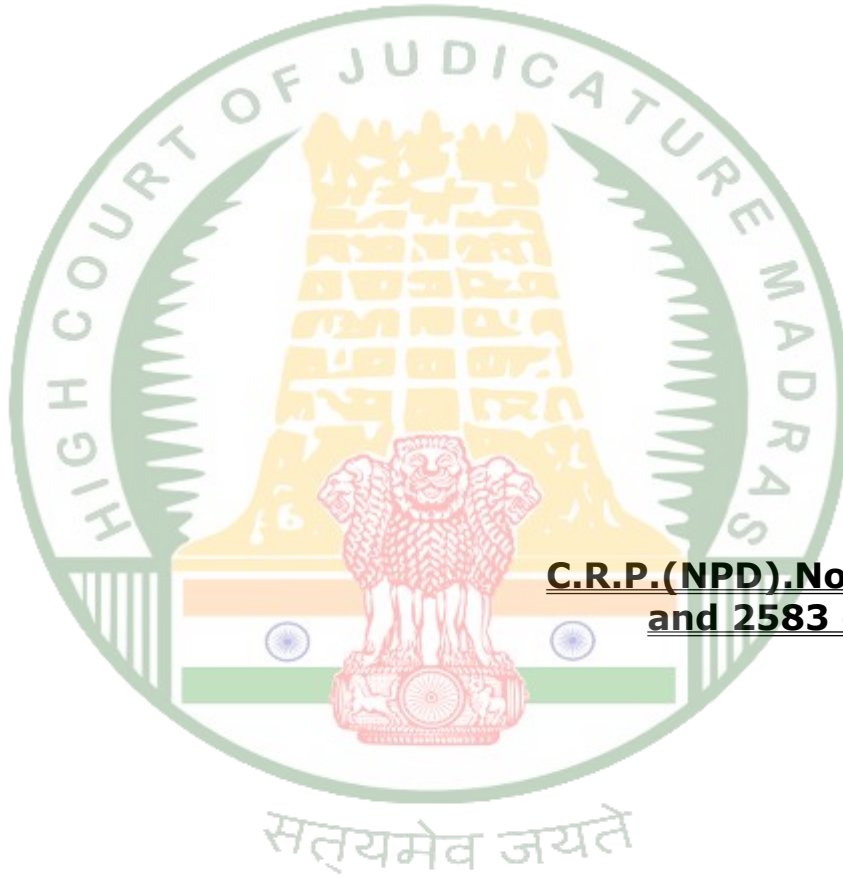
- 1.The VII Judge,
Small Causes Court,
Chennai.
- 2.The XVI Judge,
Court of Small Causes,
Chennai.



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P.T.ASHA.J.,

mps/rna



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