



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2019  
(Reserved on 14.08.2019)

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

C.R.P (NPD) (MD)No.2228 of 2015  
and  
M.P (MD)No.1 of 2015

M/s.T.M's Textiles,  
Registered Partnership Firm,  
Rep. by its Partner  
Mr.Hameed Ahamed

... Petitioner/Respondent/Tenant

vs.

A.S.Mahadevan (died)  
1)A.S.M.Maheswari  
2)A.M.Ratheesh Babu  
3)A.M.Jai Sree Muralithar

... Respondents/Petitioners/  
Landlords

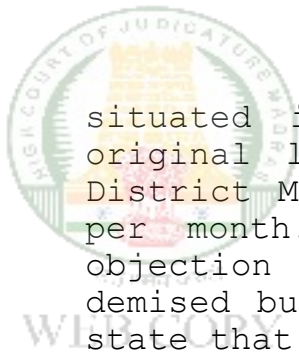
Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the order dated 02.03.2015 made in RCA.No.1 of 2011 on the file of the Principal Sub Judge, Madurai, reversing the order in RCOP.No.333 of 2002 on the file of the District Munsif, Madurai, dated 30.01.2010.

For Petitioner : Mr.R.Vijayakumar  
For Respondents : Mr.M.S.Suresh Kumar

**ORDER**

This revision petition is filed against the order dated 02.03.2015 made in RCA.No.1 of 2011 on the file of the Principal Sub Judge, Madurai, reversing the order dated 30.01.2010 made in RCOP.No.333 of 2002 on the file of the District Munsif, Madurai.

2.The revision petitioner is the tenant and the respondents are landlords. The case of the landlords is that they are wife and sons of the deceased original landlord A.S.Mahadevan, under whom, the revision petitioner was inducted as a tenant occupying 1100 sq.ft in the front portion at Door No.126-A, South Masi Street, Madurai, for business and godown on a monthly rent of Rs.4,100/-. According to the landlords, the demised premises is Type-I class with cement plastering with lime mortar and teak wood with all facilities and



situated in the heart of the Madurai City and therefore, the original landlord filed RCOP.No.333 of 2002 on the file of the District Munsif, Madurai, for fixation of fair rent at Rs.12,000/- per month. The revision petitioner/tenant filed statement of objection in the RCOP denying the claim of the landlord that the demised building would fetch monthly rent of Rs.12,000/- and would state that the admitted rent is only Rs.4,100/- per month.

3.The rent controller after considering the oral and documentary evidence on either side, fixed the fair rent at Rs.6,620/-, against which, the landlords filed RCA.No.1 of 2011 on the file of the Principal Sub Court, Madurai, contending that the rent controller has erroneously fixed the market value of the site and when the demised building consists of Madras Terrace building area and asbestos sheet area, it should be valued separately. The rent control appellate authority after considering the oral and documentary evidence, has fixed the fair rent at Rs.9,152/- per month. Aggrieved by the fixation of the rent at Rs.9,152/-, the tenant has filed this revision petition.

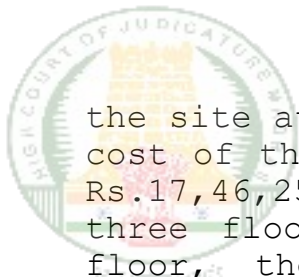
4.Learned counsel for the petitioner/tenant would contend that the rent control appellate authority has erred in valuing the site using different yardstick for building with asbestos roof and the terraced building. It is further contended that 4% ought to have been deducted towards depreciation as per Schedule II of the Tamil Nadu Buildings (Lease and Rent Control) Act, instead of 1% by the appellate authority. Thus, he would pray for setting aside the order passed by the learned appellate authority.

5.Learned counsel for the respondents/landlords would contend that when out of the total built up area of 1008.81 sq.ft, 219.45 sq ft alone is asbestos sheet portion, the rent controller ought not to have divided the total cost of the site into three stating that the demised building has 3 floors which has been rightly considered and separately valued by the appellate authority and the fair rent is fixed accordingly. Thus, there is no infirmity in the order passed by the learned rent control appellate authority and would pray for dismissal of the revision petition. In support of his contentions, he relied on the following judgments:-

- i)M.Balasubramanian vs. N.Ravindran, 2016 (3) MWN (Civil) 512.
- ii)R.Senthur Raja vs. Dr.S.Peter, 2017 (1) MWN (Civil) 517.

6.Heard both sides and perused the records.

7.Perusal of record shows that as per Ex.C3-Engineer's Report, the rent controller found that the total cost of construction of the demised building was Rs.1,78,665.65/-. After deducting 1% depreciation as per Schedule II of the Tamil Nadu Buildings (Lease and Rent Control) Act, the rent controller has arrived at the net cost of construction at Rs.79,952/-. The rent controller relying on the data sale deed, has fixed the market value of

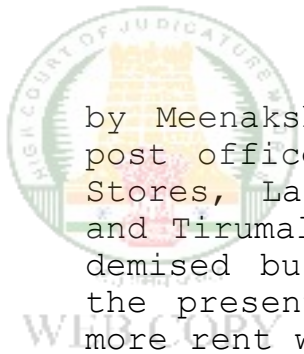


the site at Rs.1731/- per sq.ft and accordingly calculated the total cost of the site for the total built up area of 1008.81 sq.ft., at Rs.17,46,250/- and since the demised buildings admittedly consisted three floors and the petitioner was in occupation of the ground floor, the rent controller took one third of Rs.17,46,250/- amounting to Rs.5,82,083/- as the apportioned value of the site and calculated the total cost of construction at Rs.6,62,035/- (Rs.5,82,083/- + Rs.79,952/-). Since the demised premises is a non residential building, after deducting rental value at 12%, the rent controller has fixed the fair rent at Rs.6,620/- (Rs.6,62,035 x 12/100 x 1/12) under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act. On appeal before the appellate authority, the landlords would contend that when the total built up area of 1008.81 sq.ft., consists of Madras Terrace building in 789.36 sq.ft which has 3 floors and asbestos sheet area in 219.45 sq.ft which has no floors, the rent controller ought to have divided the value of the Madras Terrace building area(789.36 sq.ft) alone into 3 and not the entire built up area of 1008.81 sq.ft., by including 219.45 sq.ft asbestos sheet area which has no floors. The appellate authority finding merit in the said submission, calculated the fair rent in the following manner:-

|                         |   |                  |
|-------------------------|---|------------------|
| Madras Terrace building |   |                  |
| 789.36 x Rs.1731 / 3    | = | Rs.4,55,460.72/- |
| Asbestos sheet area     |   |                  |
| 219.45 x Rs.1731        | = | Rs.3,79,867.95/- |
|                         |   | -----            |
| Total cost of the site  | = | Rs.8,35,328.67/- |

Since the landlords did not dispute the cost of construction at Rs.79,952/-, the rent control appellate authority arrived at the total cost of construction of the demised building at Rs.9,15,280/- (Rs.79,952/- + Rs.8,35,328/-) and since it is a non residential building, after deducting 12% towards the rental value, the appellate authority has fixed the fair rent at Rs.9,152/- (Rs.9,15,280 x 12/100 x 1/12).

8.Perusal of record shows that the appellate court finding that out of the total area of 1008.81 sq.ft, 789.36 sq.ft., alone was Madras Terrace building and the balance 219.45 sq.ft., was covered with asbestos sheets without building on the top, has rightly held that the rent controller should have taken the value of 789.36 sq.ft only by dividing 3 and not the entire extent of 1008.81 sq.ft. There is no cross appeal filed by the tenant. By calculating the total cost of the site in the above manner at Rs.8,35,328.67/- and taking into consideration the cost of the building at Rs.79,952/- as per Ex.C3-Engineer's report and also after deducting 12% rental value, the appellate authority has rightly fixed the fair rent at Rs.9,152/-. In my considered opinion, there is no infirmity in the fixation of fair rent by the appellate authority. Further, the



by Meenakshi Amman Temple, many hospitals, banks, police station, post office, hotels and schools and the Business Hub (A.K.Aahamed Stores, Lalitha Jewellery, Villakutoon (famous Black Burn Square) and Tirumalai Naicker Mahal are situated within 200 meters from the demised building. According to the respondents/landlords, as per the present market value of the demised property, it would fetch more rent which fact cannot be brushed aside. Therefore, this Court is not inclined to interfere with the order of the rent control appellate authority.

Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cs-II)

// True Copy //

Sub Assistant Registrar(CS )

To

1)The Principal Sub Judge, Madurai.

2)The District Munsif, Madurai.

Copy to: The Section Offcier, V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.(2)

+1 CC to Mr.M.S.SURESH KUMAR, Advocate SR-90628.

**Order made in**  
**C.R.P (NPD) (MD)No.2228 of 2015**  
**01.10.2019**

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CS (17.10.2019) 4P 6C