

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.999 of 2019

ORDER:

This Revision is filed under Section 22 of the A.P. Building Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act') challenging the order dt.09.08.2018 in RA.No.187 of 2016 of the Additional Chief Judge, City Small Causes Court, Hyderabad confirming the order dt.31.12.2015 in RC.No.133 of 2012 of the I Additional Rent Controller, City Small Causes Court, Hyderabad.

2. The appellant herein along with four others were tenants of the RC schedule premises belonging to the 1st respondent.

3. The 1st respondent filed RC.No.133 of 2012 before the I Additional Rent Controller, Hyderabad invoking Section 4(1) of the Act seeking fixation of fair rent @ Rs.60/- per sq.ft., for the RC schedule premises consisting of 419 sq.ft., which is in occupation of the petitioner.

4. It is the contention of the 1st respondent that the rent at the time of filing of the RC was only Rs.2,670/- per month exclusive of municipal tax and electricity charges; that the petitioner was never regular in payment of rent and was a chronic defaulter; that the RC schedule premises is situated in a busy commercial locality at Tilak Road, Abids, Hyderabad which is very close to commercial area such as Koti, Sultan Bazaar, Badechowdi, Narayanaguda, Bank Street, Mozamjahi Market, etc.; that there

are commercial activities nearby the subject premises like shopping malls, hotels, lodges, etc., apart from cinema theatres; that the prevailing rents would at least be Rs.60/- per sq.ft.; and that the rents being paid by the petitioner are too low.

5. The 5th respondent in the RCC filed counter which was adopted by the petitioner herein. The relationship of landlord and tenant was admitted but it is contended that the rent of Rs.2,670/- per month which is being paid was adequate and that the construction of the building was 50 years back and there were no amenities therein.

6. Pending the RCC, the 1st respondent filed I.A.No.327 of 2017 to substitute the name of its Secretary in the place of the earlier Secretary, which was allowed on 20.11.2014.

7. The 1st respondent examined PW1 and marked Exs.P1 to P14, while the petitioner and other tenants examined RW1 and marked Exs.R1 to R9.

8. Though initially chief examination affidavit of PW1 was filed and documents were exhibited, PW1 later did not turn up for cross-examination by the opponent and so the Rent Controller treated the cross-examination of PW1 as Nil. But in the evidence of RW1, there were certain admissions, on the basis of which the Rent Controller as well as the Appellate Court fixed the rent @ Rs.32/- per sq.ft. In the cross-examination, RW1 stated that prevailing rents of the area where RC schedule property was

located was Rs.100/- per sq.ft., and he also admitted that Abids main road is at a distance of 200 to 300 meters from the RC schedule property and there are no houses in the RC schedule property, but adjacent to it, there is a commercial complex coming up and there are commercial mulgies towards Boggulakunta water tank road.

9. The Rent Controller took note of the location of the premises near commercial area and fixed the fair rent @ Rs.32/- per sq.ft., and also directed enhancement @ 10% of the existing rate of rent for every two years.

10. This was confirmed in appeal by the Appellate Authority which also relied on various admissions made by RW1 and held that the 1st respondent's case was substantiated by the same. The Appellate Authority also noted the admission of RW1 that there was a parking space available and that the RC schedule property was located only at 200 to 300 meters from Abids Main Road. Exs.P4 and P5 documents were relied upon by the Appellate Authority wherein the rents were fixed at Rs.32.52 per sq.ft., and Rs.27/- per sq.ft.

11. Challenging the same, this Revision is filed.

12. Counsel for the petitioner contended that the Rent Controller as well as the Appellate Authority erred in fixing the rent @ Rs.32/- per sq.ft., for the RC schedule premises and they

should have fixed it @ Rs.20/- per sq.ft. in view of the fact that PW1 did not turn up for cross-examination.

13. However, the fact remains that RW1 had made several admissions which had been considered by the Rent Controller and the Appellate Authority to come to the conclusion that the property is located in a commercial area and it has parking space facility and is only at 200 to 300 meters from Abids Main Road and is in the vicinity of several commercial shops, malls, and commercial complexes. RW1 himself stated that in the area where the property is located, its market rent would be Rs.100/- per sq.ft., and when the Courts below have relied on the said admission as well as Exs.P4 and P5 filed by the petitioner to come to the conclusion that the fair rent for the RC schedule property ought to be Rs.32/- per sq.ft., I do not see any perversity or error in law or in fact warranting interference by this Court with such concurrent findings of fact.

14. I therefore do not find any merit in this Civil Revision Petition and it is accordingly dismissed at the admission stage. No order as to costs.

15. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

04th June, 2019.

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