

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD) Nos.3796 and 3797 of 2010

E.Durai Babu

...Petitioner in both C.R.Ps

..Vs..

T.K.Ethiraja Gramini (Died)
by L.R
Mr.E.Mohan

...Respondent in both C.R.Ps

PRAYER in C.R.P.(NPD)No.3796 of 2010: Civil Revision Petition filed under 25 of Tamil Nadu Act 18 of of 1960 as amended by Act 23 of 1973, against the judgment and decree dated 22.10.2007 in R.C.A.No.661 of 2002 on the file of VIII Court Small Causes (Appellate Authority), Chennai, confirming the order and decretal order dated 03.04.2002 passed in R.C.O.P.No.2724 of 1998 by the Rent Controller, XV Judge (Court of Small Causes), Chennai.

PRAYER in C.R.P.(NPD)No.3797 of 2010: Civil Revision Petition filed under 25 of Tamil Nadu Act 18 of of 1960 as amended by Act 23 of 1973, against the judgment and decree dated 22.10.2007 in R.C.A.No.670 of 2002 on the file of VIII Court Small Causes (Appellate Authority), Chennai, confirming the order and decretal order dated 03.04.2002 passed in R.C.O.P.No.2724 of 1998 by the Rent Controller, XV Judge (Court of Small Causes), Chennai.

For Petitioner : Mr.T.Viswanatha Rao in both C.R.Ps

For Respondent : No appearance in both C.R.Ps

ORDER

Both the Civil Revision Petitions are filed by the tenant.

2. The respondents/landlord filed R.C.O.P.No.2724 of 1998 for fixing the fair rent of the petition premises let out of the revision petition seeking fixing the fair rent at the rate of 1327.83 per mensem. The contractual amount is Rs.250/- The said R.C.O.P after trial, the Rent Controller has fixed the fair rent as Rs.872/- and hence, the respondents/landlord has preferred R.C.A.670 of 2002 whereas the tenant also filed in R.C.A.No.661 of 2002.

3. Pending R.C.A, the first respondent/landlord died and the legal representatives are brought on record. Further pending appeal in R.C.A.No.661 of 2002 the appellant/tenant has filed M.P.No.136/2007 to receive additional documents on the side of the tenant. In R.C.A filed by the landlord and tenant, both are dismissed and hence, these Civil Revision Petitions.

4. Heard the learned counsel for the petitioner.

5. Both the appeals are filed regarding a shop in the ground floor of premises No.381, T.H.Road, Old Washermenpet, Chennai-21. The petitioner/tenant filed a Certified copy of document No.1648/98 dated 29.06.1998 relating to property bearing New Door No.350, T.H.Road, Washermenpet, Chennai-21, RCOP.No.2724/98 filed on 02.02.1998. Hence, the sale deed filed can be marked as Exhibit.R6 to arrive the market value of the land. Sale deed dated 29.06.1998 is marked as Ex.R6. The appellant in R.C.A.No.661 of 2002 is the tenant and the respondents are the owners. The present monthly rent of the petition premises is Rs.250/- and the petition premises is a non residential portion. The landlord alleged the present rent is very low and therefore filed R.C.O.P.No.2724/98 for fixation of fair rent.

6. The landlord's Engineer in his evidence and Report Ex.P2 fixed the age of the building as 35 years. The tenants engineer in his report Ex.R3 fixed the age of the building as 68 to 70 years. The landlord failed to produce the approved plan or any other documents to prove the age of the building as 35 years. On the other hand, P.W.1 in cross examined admitted Ex.R1 partition deed and Ex.P2 Settlement Deed. Ex.R1

annexure form 1-A age of the building is stated as 60 years. Ex.R1 executed on 26.05.1990. Hence, in the years of the petition building is 60 years. R.C.O;O filed in the year 1998. So the age of the building in the year 1998 is 68 years. The learned Rent Controller fixed the age of the building as 68 years on the basis of tenant's Engineer Report Ex.R1 and Ex.R2.

7. Thus the finding rendered by the Appellate Authority does not suffer from irregularity on the point of the market value of the property. Both the parties are filed document Ex.R6 is the registered sale deed in respect of Door No.485 New Door No.350, T.H.Road, Old Washermenpet, Chennai-21. Since Ex.R6 the value the property is considered and accordingly, both the parties finally fixed the value of the land at the rate of 910/- per square feet is appears to be just and reasonable.

8. Based upon the Engineer's evidence, the Appellate Authority also having relied on 1993 (3) L.W.Page No.193 in Srinivasa Gounder Vs.K.Venkatesan, in which this Court has held as follows:

"Market value of the property cannot be decided simply on the basis of valuation report of building plan – Sale transaction in the locality should be the basis – Acceptingly value given by the Sub Registrar, whether sufficient – Evidence must be let in by examining the person concerned with the sale deed or the transactions".

9. Accordingly, the fair rent has been arrived at the market value at the rate of 910/- per square feet and at the rate of 872/- and therefore, in the absence of any irregularity or illegality in arriving at the fair rent and taking into consideration scope of this revision has filed under Section 25 of the Tamil Nadu Building Rent Control Act and this Civil Revision Petition is dismissed. No costs.

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Index:Yes/No

Speaking Order:Yes/No

To

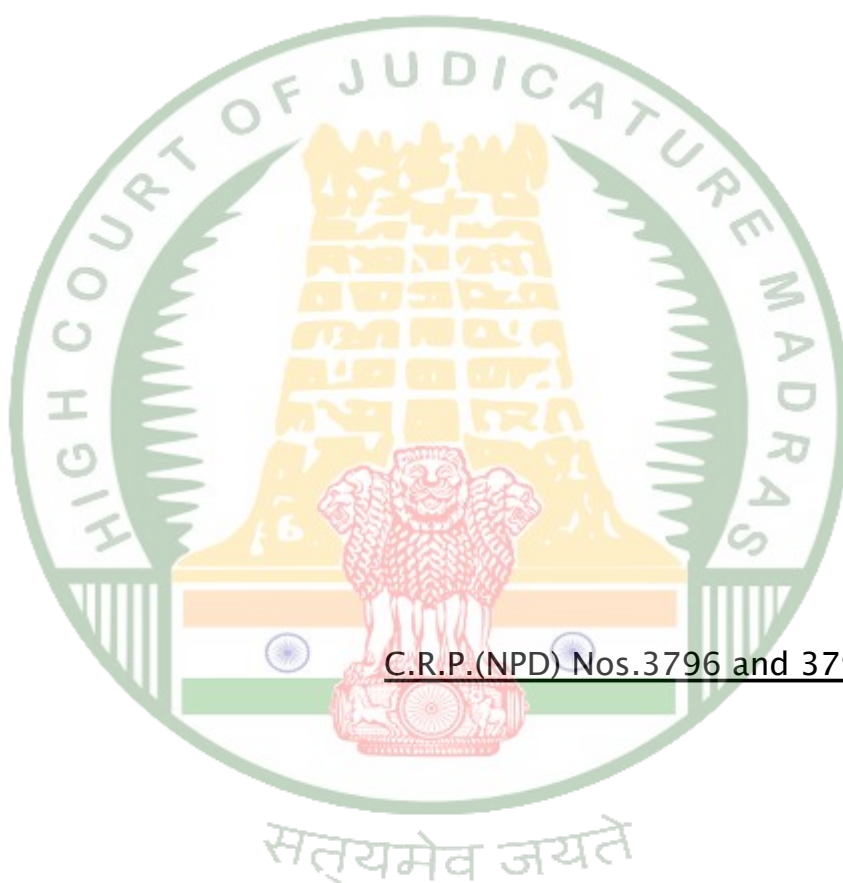
1. The VIII Court Small Causes (Appellate Authority), Chennai

2.The XV Judge (Court of Small Causes), Chennai.

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