IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.01.2020

PRONOUNCED ON : 06.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

C.R.P. (NPD) Nos.1294 of 2011 and 449 of 2013
and
M.P.No.1 of 2011

C.R.P. (NPD) No.1294 of 2011

M/s.Designer Dresses (P) Ltd.
40/144, North Usman Road,
T.Nagar, Chennai-600 017
Rep by its Director S.Rajagopalan ... Petitioner

-vs-

M/s.G.R.Natarajan & Co.,
Rep by its Managing Partners,
1.N.Sairam

2.N.Ramasundaram

3.K.Balakrishnan

4.R.Sarala ... Respondents

(Cause title amended vide Court order dated 30.07.2019
made in C.M.P.No.15351 of 2019)

PRAYER: Civil Revision Petition is filed under Section 25 of the Tamilnadu Building (Lease and Rent control) Act, 1960, against the judgment and decree made in RCA Nos.221 of 2005 on the file of the VII Court of Small Causes at Chennai-cum Appellate Authority dated 25.01.2011 reversing the order of the XI Judge, Small Causes Court dated 25.01.2005 made in RCOP No.1602 of 2003.

For Petitioner : Mr.Niranjan Rajagopalan
for M/s.G.R.Associates

For Respondents : Mr.R.Sivaraman

C.R.P. (NPD) No.449 of 2013

M/s.G.R.Natarajan & Co.,
Rep by its Managing Partners,
1.N.Sairam

2.N.Ramasundaram

3.K.Balakrishnan

4.R.Sarala ... Petitioners

(Cause title amended vide Court order dated 30.07.2019
made in C.M.P.No.15352 of 2019)

-vs-

M/s.Designer Dresses (P) Ltd.
40/144, North Usman Road,
T.Nagar, Chennai-600 017
Rep by its Director S.Rajagopalan ... Respondent

PRAYER: Civil Revision Petition is filed under Section 25 of the Tamilnadu Building (Lease and Rent control) Act, 1960, against the judgment and decree made in RCA No.318 of 2005 on the file of the VII Court of Small Causes at Chennai-cum Appellate Authority dated 25.01.2011 confirming the order of the XI Judge, Small Causes Court dated 25.01.2005 made in RCOP No.1603 of 2003.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.Niranjan Rajagopalan for M/s.G.R.Associates

COMMON ORDER

As both the civil revision petitions are arising out of the order passed in RCOP No.1603 of 2003 on the file of the XI Judge, Small Causes Court, Chennai, and hence common arguments was heard and common order is pronounced.

2.CRP (NPD) No.1294 of 2011 was filed by the tenant while CRP(NPD) No.449 of 2003 was filed by the landlord.

3.For the sake of convenience the parties are referred to as landlord and tenant.

4.The landlord has filed RCOP No.1603 of 2003 under Section 4 of the Tamilnadu Building (Lease and Rent control) Act, for fixation of fair rent for the petition premises.

5.Brief averment in the petitions are as under:-

(i) the landlord is the owner of the petition premises bearing old door No.144, New Door No.40, North Ushman Road, T.Nagar, Chennai-17 and the same was granted in lease by the landlord to the tenant for a monthly rent of Rs.50,000/- per mensem.

(ii) The petition building consists of basement, ground with mezzanine floors besides a three storied mixed commercial complex that belongs to other persons. The total extent of the land is 7420 sq.ft in which the landlord holds 50% undivided share of the land.

(iii) The value of land and building with the amenities provided by the landlord is Rs.1crore. The demised premises is situated in the heart of the city at North Usman Road. Anna Salai is about 3 kms from the petition premises. So, the market value of land is Rs.4755/- per sq.ft. Therefore, the fair rent for the building has to be fixed at Rs.91,000/-

per mensem.

6.The claim of the fair rent as claimed by the landlord, was resisted by the tenant on multiple grounds inter alia contented that

(i) the landlord was required to provide various facilities to the tenant and none of them were provided and the tenant had to spend for putting up for permanent fixtures for the purpose of completion of the ground floor and mezzanine floor.

(ii) There is no metro water connection, no lift facility, generator and only to the extent of 30% of the area, was occupied by the tenant, car parking facility for the tenant is also very limited. The valuation of the property that is occupied by the tenant, would be Rs.1 crore is an exaggeration. In the circumstances, the claim made by the landlord for a sum of Rs.91,000/- per mensem for the petition premises is unreasonable. The fair rent for the portion of the building occupied by the tenant, comes only to Rs.34,00/- per mensem.

7.In order to substantiate his claim for the fair rent at the rate of Rs.91,000/- per mensem, the landlord examined himself as PW1 and also marked the authorisation letter as Ex.P3 and engineer was examined as

PW.2 and the engineer's report was marked as Ex.P1. The sample sale deeds were marked as Ex.P2, Ex.P4 and Ex.P5 respectively. On the other hand, the tenant examined himself as RW1 and his engineer was examined as RW2 and the report of the engineer was marked as Ex.R3, while the sample sale deeds were marked as Ex.R1, Ex.R2 and Ex.R4.

8.The learned Rent Controller fixed the fair rent at Rs.62,317/- and hence, the landlord has filed an appeal in RCA No.318 of 2005 while the tenant has filed an appeal in RCA No.221 of 2005. By common judgment dated 25.01.2011, the learned Appellate Authority has partly allowed the Rent Control Appeal filed by the tenant and reduce the fair rent from Rs.62,317/- to Rs.60,937/- per mensem and hence, the above two civil revision petitions have been filed by the landlord and tenant.

9.Heard both sides and perused the records.

10.In order to fix the fair rent, type and age of the building, depreciation therefor and the amenities available thereto are to be considered with proportionate to plinth area and extent of the land on which the building stand along with the land value and the nature of the amenities as mentioned in schedule-I are to be taken into consideration.

11.On perusal of the evidence of both the Engineers PW2 and RW2 along with Ex.P1 and Ex.R3 engineers' reports, it appears that the building is type-1 and furthermore, the age of the building is eight years. Taking into consideration of the petition premises is of Type-I and the building age is 8 years, as per the schedule, the depreciation is to be taken at 1% only, a similar finding rendered at by the Appellate Authority is found to be in accordance with schedule prescribed under the Act. In view of the admission of the RW2 in the cross examination that all the three basic amenities are available in the petition premises, 10% is fixed for basic facilities.

12.On the point of total extent of building occupied by the tenant, the report of the respective Engineers Ex.P1 and Ex.R3 were taken into consideration. Since there was no sanctioned plan for the petition premises and taking note of the evidence of RW2 and his report under Ex.R3, the plinth area of the petition portion in the ground floor is fixed at 2427 sq.ft and in the mezzanine floor is 928 sq.ft.

13.Based upon the evidence of PW2 and RW2 coupled with Ex.P1, Ex.R3, Ex.P4 and Ex.P5, the plinth area has been divided by two for calculating the extent of land i.e., 2427 + 928 =3355/2 = 1678 sq.ft.

14(a). The schedule of the property in the RCOP is the apartment building namely Rajamani Complex, at old door No.144, New door No.40, North Usman Road, T.Nagar, Chennai-17, bounded on the north by old door No.145, New Door No.38, south by old door No.143, New door No.42, East by North Usman Road, West by land comprised in T.S.5224/8, measuring an extent of 3 ground and 220 sq.feet. In this, 50% undivided share of the land and the building is at the ground and mezzanine floor.

14(b).It is to significant to note that the petition premises is situated in the heart of the city at North Usman Road. Anna Salai is about 2 kms from the place and the National and International air terminals are just 20 minutes drive away. The railway stations at Chennai Central and Chennai Egmore are equally proximate. Educational institutions, post offices, banks, police station, temple, market and every single aspect that goes to improve the value of the property is situated near by. The total extent of the land is 7420 square feet, in which the petitioner holds 50% undivided share of the land.

15.On perusal of the sample sale deed filed by both the parties, it is seen that Ex.R1 marked on the side of the tenant and Ex.P5 are one and the same. Ex.R2 the sample sale deed dated 06.01.2003 and Ex.R4 the sample sale deed are one and the same and thus, this Court finds that from the schedule of the property mentioned in the petition premises and the schedule of the property mentioned in Ex.P4 and Ex.P5 sample sale deeds, it appears to be closest to the petition premises and based upon the aforesaid documents, the land value per ground is fixed at Rs.65 lakhs and the similar finding arrived at by the Rent Control Appellate Authority is well considered and well merited, which does not warrant interference.

16.Based upon the evidence of RW2 and Ex.R3 the appellate authority has assessed the amenities value at Rs.3,75,000/- and 5% was provided for schedule-I amenities and accordingly, has calculated the fair rent at paragraph-20 of judgment. On consideration of the fact that the petition premise is non residential and 12% is adopted and accordingly, fixed the fair rent at Rs.60,937 per mensem.

17.As I find the plinth area and extent of the land are properly calculated and besides the nature of the building amenities. the depreciation are properly assessed and the amenities are provided 5% and accordingly, the calculation adopted by the appellate authority and the factual position appears to be best and reasonable. Hence, the fair rent fixed so by the Appellate Authority does not warrant any interference.

18.In view of the above observations, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2020

Index: Yes / No
Internet: Yes / No
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To;-

1.The Judge,
VII Court of Small Causes,
Chennai.

2.XI Judge,
Small Causes Court,
Chennai.

3.The Section Officer,
Vernacular Records,
Madras High Court,
Madras.

RMT. TEEKAA RAMAN, J.
cp

Order made in
C.R.P. (NPD) Nos.1294 of 2011
and 449 of 2013
and
M.P.No.1 of 2011

06.03.2020