

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 24.09.2020	Delivered on 30.09.2020
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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP. NPD.No.1816 of 2018

1. Muthukumariah

2. C.S.Murugesan

... Petitioners

Vs.

T.Rajagopalan

... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, praying to set aside the judgment and decree dated 15.09.2014 made in RCA No.424/2006 on the file of VIIth Judge Court of Small Causes at Madras confirming the judgment and decree dated 29.3.2006 made in RCOP No.1768 of 2005 on the file of XIIIth Judge Court of Small Causes at Chennai.

For Petitioners : Mr. R.Loganathan

For Respondent : Mr. V.Anand
For M/s.P.V.Sudakar

ORDER

This matter is taken up for hearing through Video-Conferencing.

This Revision is at the instance of the landlord upon whose application, the learned Rent Control fixed the fair rent for the petitioner premises at Rs.1,938/- per month. The said fixation was confirmed by the Appellate Authority in RCA No.424 of 2006.

2. The petition premises is a portion of a non-residential building measuring about 190 sq.feet. The common areas in which the tenant is entitled to a right of user measures about 46 sq. feet, so the total constructed area in the occupation of the tenant is about 236 sq. feet. Since the demised premises forms part of a larger building, the value of the land was also apportioned between the tenants. There is no dispute as regards the fixation of the extent of building in the occupation of the tenant, the value of the building and the extent of land that is to be apportioned to the tenant in relation to the area of the building in his occupation. The only dispute in the Civil Revision Petition is regarding the valuation of the land adopted by the learned Rent Controller as well as the learned Appellate Authority.

3. The building in question is situate in Meeran Sahib Street, Chennai 2. Meeran Sakib Street is a street which branches of from Blackers Road. Blackers Road branches of from Anna Salai (Mount Road), which is one of the busiest thoroughfares in the City of Chennai. Claiming that the petition premises is situate in one of the very important commercial areas in the City, the landlord claimed that value of 2400 sq. feet of land (one ground) would be about Rs.1,00,00,000/- in the said Meeran Sahib Street.

4. The tenant denied the said claim and contended that the street in which the petition premises is situate is a very narrow street and the land value claimed by the landlord is on the higher side. Both the landlord as well as the tenant examined two Civil Engineers in support of their case. In support of the claim that the land value would be Rs.1,00,00,000/- per ground, the landlords relied upon a Sale Deed of a property situate on Mount Road. A copy of the said Sale Deed was also produced along with an analysis Report of the Engineer, who was examined as P.W.1. The tenant in support of his claim that the land value is not Rs.1,00,00,000/- as claimed by the landlord relied upon the Guideline Register which reflected the value of the land in Meeran Sahib Street, as around Rs.50,00,000/- per ground.

5. Both the learned Rent Controller and the Appellate Authority rejected the Guideline Register marked as Ex.R5 on the ground that it is not a certified copy and it is a Web extract. The Sale Deed filed by the landlord marked as Ex.P2 was also rejected by the Authorities on the ground that it is situate on Anna Salai (Mount Road) which is a 80 feet Road and hence it won't be safe to rely upon the valuation reflected by the said Sale Deed for determining the value of land in Meeran Sahib Street, which is admittedly a narrow street.

6. I have heard Mr.R.Loganathan, learned counsel appearing for the petitioners and Mr.V.Anand, learned counsel appearing for M/s.P.V.Sudakar, for the respondent.

7. Mr.R.Loganathan, learned counsel appearing for the petitioners/landlord would contend that though both the Rent Controller and the Appellate Authority rejected Ex.P5, they have fixed the valuation of the land at Rs.50,00,000/- per ground as reflected by Ex.P5. Therefore, according to Mr.Loganathan, the said fixation of the land value by the Authorities constituted under the Act, is flawed. Mr.Loganathan would also draw my

attention to the analysis report of the Engineer examined as P.W.1 which is marked as Ex.P3 to contend that appropriate deductions have been made in the value of the land as reflected by Ex.P2 Sale Deed, so as to bring it in tune with the value of the land in Meeran Sahib Street.

8. As per Ex.P2 Sale deed, the value of the land in Mount Road is works out to Rs.2,31,89,808/- in the year 1997. P.W.1, the Civil Engineer, has adopted an annual increase of 5% and arrived at the value of the land in the year 2004-2005 at Rs.3,42,61,904/- per ground. Since Meeran Sahib Street, is a lane which branches off from Blackers Road, which again branches off from Mount Road, P.W.1 has taken the value of the land at Rs.1,00,00,000/- after allowing a deduction of more than 2/3rd. Therefore, according to Mr.R.Loganathan, the Authorities viz. the Rent Controller and the Appellate Authority must have accepted the analysis report filed by P.W.1 and fixed the land value at Rs.1,00,00,000/-.

9. Mr.R.Loganathan, learned counsel appearing for the petitioners/landlord would also invite my attention to the judgment of the Full Bench of this Court in *M/s.Sakthi & Co., through its partner Veeranan v.*

Shree Desigachari, reported in *2006 (2) CTC 433*, wherein, the Hon'ble Full Bench had held that the guideline value fixed by the Government for the purposes of Stamp Duty cannot form the basis for fixation of fair rent.

10. Contending contra, Mr.V.Anand, learned counsel appearing for the respondent/tenant would submit that both the Rent Controller as well as the Appellate Authority had not relied upon the guideline value they had applied their mind to the location of the property and has arrived at the conclusion that the value of the property in Meeran Sahib Street, would be around Rs.50,00,000/- during the relevant period of time. When neither the tenant nor the landlord produced acceptable evidence regarding the valuation of the land, according to the learned counsel, the Authorities constituted under the Act, would be justified in fixing the value taking into account the various factors. Therefore according to the learned counsel, the fixation of the land value at Rs.50,00,000/- per ground need not be interfered with.

11. I have considered the rival submissions.

12. The evidence of P.W.1 goes to show that Meeran Sahib Street is a street that branches off from Blackers Road, which in turn branches off from Mount Road. It is also situated very close to the famous electronic market in Ritchie Street and Narayani Mudali Street. From the evidence, it is also seen that the area in question is a very important commercial locality in the City. Meeran Sahib Street is situated just about 200 meters from Mount Road and it connects Blackers Road and Narayani Mudali Street. The fact that it is a very busy commercial locality is also admitted by both P.W.1 and R.W.1, who are qualified Civil Engineers.

13. Since there is no dispute regarding the fixation of the value of the building or the area in occupation of the tenant, the only question that has to be decided in this Civil Revision Petition is regarding the value of the land. P.W.1, the Engineer examined on behalf of the landlord has admitted that the distance between the property covered by Ex.P2 Sale Deed and the Meeran Sahib Street, is about a Kilometre. P.W.1 has also filed an analysis Report, as per which, he has arrived at the value of the land under Ex.P2 Sale Deed per ground in the year 2005 at Rs.3,42,61,904/-. No doubt, the property covered by Ex.P2 Sale Deed is situated on Anna Salai (Mount Road) which is about 80 feet wide and

one of the major thoroughfares in the City.

14. The argument of the learned counsel appearing for the respondent/tenant is that the said valuation cannot be adopted as a basis for fixation of fair rent of the petitioner premises which is admittedly situate in the Street of a smaller width. Though this argument appears to be very attractive, it overlooks the fact that P.W.1 has not adopted the same value as reflected by Ex.P2 for the land in Meeran Sahib Street also. While the land value in Mount Road is shown to be about Rs.3,42,61,904/-, P.W.1 has taken the value of the land in Meeran Sahib Street only at Rs.1,00,00,000/-, which is less than a third of the value reflected by Ex.P2 Sale Deed.

15. The tenant on the other hand had not taken any steps to place evidence regarding valuation before the Court, though R.W.1 the Civil Engineer was examined on the side of the tenant, he has produced Ex.R5, which is a Web extract of the guideline value of the land in Meeran Sahib Street. As per the decision of Full Bench of this Court, referred to supra, guideline value cannot be taken as a basis for fixation of fair rent under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 . Though the

Authorities constituted under the Act had pointed out that Ex.P5 being a Web extract of the guideline value cannot be safely relied upon to fix the valuation, they have almost adopted the valuation reflected by Ex.P5.

16. I am therefore unable to sustain the valuation of the land adopted by the Authorities. Once it is held that Ex.R5 cannot be looked into and the guideline value cannot form the basis for fixation of valuation of land, they have to necessarily fall back on the other evidence that is available in the form of Ex.P2 Sale Deed and the Analysis Report filed by P.W.1. From the evidence available, it is clear that though the petitioner premises is situate in a smaller lane, it is also an important commercial locality in the City. I therefore, find that the Analysis Report of the Engineer viz. P.W.1 could be accepted and the land value as suggested by him at Rs.1,00,00,000/- per ground can be taken as the basis for fixation of fair rent of the petitioner premises.

17. Of course fixation of land value, when the evidence offered by the parties is not very clear, involves some guess work. But when some basis for that guess work is there in the evidence, I do not think that there is anything wrong in the Courts accepting that basis and fixing the land value according to

the evidence that is available, instead of fixing an imaginary figure without any basis. I therefore conclude that the land value should be taken at Rs.1,00,00,000/- per ground. If the land value is taken at Rs.1,00,00,000/- per ground, the fair rent payable would be as follows:

<i>Description</i>	<i>Amount</i>
RCC Built Up Portion at Rs.350/- per sq. feet for 190 sq.feet	66,500.00
Public Toilet at Rs.350/- per sq. feet for 4 sq. feet	1,400.00
Common Stairs at R.350/- per sq. feet for 15 sq. feet	5,250.00
Common passage at Rs.280/- per sq. feet for 27 sq. feet	7,560.00
Total	80,710.00
Add 15% for basic amenities	12,107.00
Total	92,817.00
The building is 35 years old. If depreciation is worked out for 35 years the value of the building is	65,250.00
<u>VALUE OF THE LAND</u>	
The area assignable for the built upportion occupied by the tenant is 59 sq. feet.	
Value of the land $\frac{59 \times 1,00,00,000}{2400}$	2,45,833.00

<i>Description</i>	<i>Amount</i>
Value of the Building	65,250.00
Value of the land	2,45,833.00
Total	3,11,083.00
Add 3% for Schedule I Amenities	9,332.49
Total	3,20,415.49

Since the petitioner premises is a non residential premises Landlord will be entitled to 12% of the value as fair rent i.e, Rs.38,449.85 per annum. Therefore, the monthly fair rent is Rs.3,204.15, the same is rounded off to Rs.3,200/- per month .

18. In the result, the Civil Revision Petition is **partly allowed**, the fair rent is fixed at Rs.3,200/- per month. No costs. Consequently, the connected miscellaneous petition is closed.

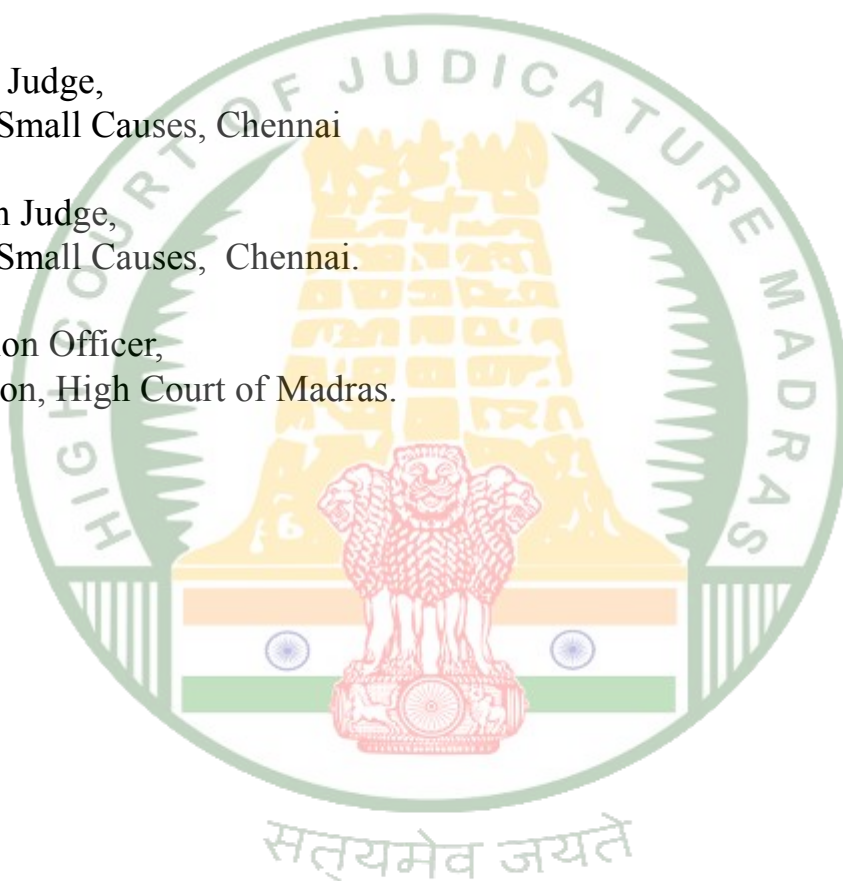
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Index: No
Internet: Yes
Speaking order

To

1. The VIIth Judge,
Court of Small Causes, Chennai
2. The XIIIth Judge,
Court of Small Causes, Chennai.
3. The Section Officer,
V.R.Section, High Court of Madras.



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R.SUBRAMANIAN, J.

jv



Pre Delivery Order

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