

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.12.2019

PRONOUNCED ON : 02.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.2382 of 2014

R.K.Kuppuswamy ...Petitioners/Landlord

.. Vs ..

A.Shahul Hameed ...Respondent/Tenant

PRAYER: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 to set aside the order and decretal order of the learned VII Judge, Small Causes Court, Chennai, made in RCA No.401 of 2013, dated 28.03.2014, modifying the order and decretal order of the learned XIII Judge, Small Causes, Chennai, made in RCOP.No.1307 of 2010, dated 02.07.2013, insofar as the same is against the petitioner and fix the fair rent.

For Petitioner : Mr.A.Babu

For Respondent : Mr.M.Balasubramanian

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JUDGMENT

The Civil Revision Petition has been filed by the revision petitioner/landlord, against the order passed by the learned VII Judge, Small Causes Court, Chennai, in RCA No.401 of 2013, dated 28.03.2014, modifying the order passed by the learned XIII Judge,

Small Causes Court, Chennai, made in RCOP.No.1307 of 2010,
dated 02.07.2013

2 The landlord is the revision petitioner herein.

3 The matter arises under the fixation of fair rent in Rent
Control Proceedings.

4 The case, in brief, before the Rent Control Authority is
as under:

(a) The respondent is a tenant under the petitioner/landlord in
respect of a non-residential portion in the petition premises on a
monthly rent of Rs.11,100/-. The plinth area occupied by the
respondent is 910 sq.ft. and common passage area is 20.87 sq.ft.
All the three basic amenities are available. The classification of the
building is type -1 and the age of the building is 40 years. The
petition premises is situated in a busy commercial area and so, the
value of the land is Rs.3,00,00,000/- per ground. The present rent
paid by the respondent is very low. Hence, fair rent is to be fixed
as Rs.72,400/-.

(b) The respondent/tenant has resisted the said claim contending that the petition premises is not a type-1 building and the said rent as such paid is fair enough.

(c) Before the Trial Court, on behalf of the petitioner, PW1 & PW2 were examined and Exs.P1 to P3 were marked. On behalf of the respondent, RW1 was examined and Exs.R1 to R4 were marked.

(d) On 02.07.2013, based upon the Valuer's report given by the witnesses PW1 and RW1, the learned Rent Controller, Court of Small Causes, Chennai, has fixed the fair rent at Rs.32,102/-, in RCOP and hence, the tenant has preferred an appeal in RCA.No.401 of 2013, before the Court of Small Causes, Chennai (Appellate Authority) to set aside the order passed in RCOP. In the appeal, the Lower Appellate Court has re-fixed the land value at Rs.1,50,00,000/- and after calculation, as required under the Tamil Nadu Buildings (Lease and Rent Control) Act, reduced the rent fixed by Rent Controller and fixed the fair rent for the petition premises as Rs.22,760/-. Therefore, the landlord has preferred this Civil Revision Petition.

5 The short point that arises for consideration is as to whether what is the fair rent for the petition building? From the schedule of the property, it is seen that the petition property is a non-residential portion in the ground floor at Door.No.352 (New Door No.70), Arcot Road, Kodambakkam, Chennai 24). With regard to the nature of the availability of basic amenities, extent of common passage and schedule-1 amenities are not in dispute.

6 Heard both sides and perused the documents placed on record.

7 From the rival submissions of the respective counsel, it is only confined to the land value and market value to be fixed for the said portion. On behalf of the landlord, Ex.P3/Model Sale Deed was marked and on behalf of the tenant, Ex.R2/Model Sale Deed was marked. On a perusal of Ex.P3, it is seen the land value was re-assessed at Rs.2,20,38,567/-, but the extent that has been sold under the said Model Sale Deed is Seven Grounds.

8 Per contra, the tenant is relied upon Ex.R2, which is for a small extent of 625 sq.ft., whereby, the marked value is fixed at

Rs.1,08,00,000/-. It appears from the address mentioned in the respective Sale Deeds, both cannot be taken as true value of the site. While the Model Sale Deed given by the landlord is in respect of the very big extent as compared to the petition premises.

9 On the contrary, Model Sale Deed of the tenant Ex.R2 is very small as compared to the extent mentioned in the Ex.P3. It is no doubt true that the locational advantages of the petition premises cannot be ignored. The petition premises is admittedly situated at Door.No.352 (New Door No.70), Arcot Road, Kodambakkam, Chennai 24 and it has got more locational advantages and it is located in the heart of the Kodambakkam main road. Though, the larger extent of Seven Grounds was detailed under Ex.P3, the sale consideration appears to be Rs.2,20,00,000/- per ground. But the land in question is only 20.87 sq.ft in the ground floor and the purpose is a non-residential purpose and hence, this Court finds that taking into consideration the locational advantages and also taking note of the extent of the petition premises, the learned Rent Control Appellate Authority has rightly fixed the marked value at Rs.1,50,00,000/- and in respect of other calculation of depreciation and schedule-1 amenities and basic

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amenities are not much in dispute. Therefore, this Court finds that the market value arrived at by the Lower Appellate Court/Rent Control Appellate Authority at Rs.1,50,00,000/- is just and fair.

10 In the result, the Civil Revision Petition stands dismissed and the fair rent viz., Rs.22,760/-, fixed by the learned Rent Control Appellate Authority viz., the learned VII Judge, Small Causes Court, Chennai, in RCA No.401 of 2013, dated 28.03.2014, is hereby confirmed. No costs.

02.01.2020

Index : Yes / No
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To

- 1.The learned VII Judge,
Small Causes Court, Chennai.
- 2.XIII Judge,
Small Causes Court, Chennai.

Pre-Delivery Judgment

in

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