

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

C.R.P(NPD).No.4003 of 2014

S.Khaja Mohideen Petitioner

Vs.

P.L.Madhanagopal Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, to set aside the decree and judgment of the learned VII Judge, Court of Small Causes, Chennai, dated 23.06.2014 in R.C.A.No.209 of 2012 confirming the order of the XVI Judge, Court of Small Causes, Chennai, in R.C.O.P.No.1610 of 2009, dated 25.07.2011 and refix the fair rent.

For Petitioner : Mr.U.Archana
for Mr.Harishankar
Mr.Srinath Sridevan

For Respondent : Mr.H.Manojin

ORDER

This Civil Revision Petition has been filed by the appellant/tenant against the judgment passed by the Rent Control Appellate Authority (VII Court of Small Causes), Chennai, in R.C.A.No.209 of 2012 dated 23.06.2014.

2. The respondent herein had filed R.C.O.P.No.1610 of 2009 on the file of the Rent Controller (XVI Court of Small Causes), Chennai, under Section 4 of the Tamil Nadu Buildings (Rent & Lease Control) Act, 1960, (hereinafter referred to as Rent Control Act) to fix the fair rent.

3. The Rent Controller by the order dated 25.07.2011 had allowed the said petition and fixed the fair rent at Rs.23,384/- per month for the petition mentioned property. Feeling aggrieved, the petitioner herein had filed an appeal in R.C.A.No.209 of 2012 on the file of the Rent Control Appellate Authority (VII Court of Small Causes) Chennai. The learned Rent Control Appellate Authority by its order dated 23.06.2014 had dismissed the said appeal thereby, confirmed the order

passed by the Rent Controller. Feeling aggrieved, the tenant has filed the present Civil Revision Petition.

4. Heard Ms.U.Archana, for Mr.Harishankar, the learned counsel for the petitioner and Mr.H.Manojin, the learned counsel for the respondent.

5. The learned counsel for the petitioner has submitted that the petitioner is a tenant under the respondent in respect of the second floor alone in Premises No.37, Wallers Road, Chennai 600 002. She further submitted that the said premises contains ground floor plus three floors but, the learned Rent Controller has not taken into consideration the existence of third floor and assessed the value of the building excluding the value of the third floor. She further submitted that the petitioner has not furnished the particulars with regard to the extent of the land in which the petition mentioned building is constructed. She further submitted that the second floor is not provided with water facility and electricity supply and without considering the aforesaid facts, the learned Rent Controller had fixed the fair rent. She further submitted that the petition mentioned property is situated in Wallers Road, whereas,

the petitioner has produced certain documents which are relating to the properties situated in some other area and without considering the same, the learned Rent Controller had fixed the value of the land on assumption without any basis.

6. She further submitted that the petitioner has not produced any materials to show the age of the building and the said fact also has not been considered by the learned Rent Controller and fixed the fair rent as Rs.23,384/- per month for the second floor alone and the same has been mechanically upheld by the learned Rent Control Appellate Authority and dismissed the appeal filed by the petitioner herein and therefore, she prayed to allow this Civil Revision Petition and set aside the order passed by the Court below and dismiss RCOP.No.1610 of 2009.

7. Per contra, the learned counsel for the respondent has submitted that in the petition filed in R.C.O.P.No.1610 of 2009, the petitioner has categorically averred that the building consists of ground floor plus two floors only and the said building was constructed on proper foundation with bricks and cement mortar and the said fact has

not been specifically denied by the respondent in his counter statement. He further submitted that since the petitioner is an occupant of the second floor alone, the other particulars are not relevant for considering the petition which was filed to fix the fair rent.

8. He further submitted that the learned Rent Controller after considering the materials placed before her including the Engineer's report, PWD circular and sale deed had rightly fixed the fair rent for the tenanted portion at Rs.23,384/- and the same has been confirmed by the Rent Control Appellate Authority and in the said concurrent findings, this Court need not interfere and therefore, he prayed to dismiss this Civil Revision Petition.

9. A perusal of the typed set of papers filed by the petitioner shows that the respondent herein had filed RCOP.No.1610 of 2009 under Section 4 of the Rent Control Act, to fix the fair rent to the second floor portion in premises No.37, Wallers Road, Chennai 600 002 at Rs.31,666/- per month from the date of filing of the said petition. But, he has not furnished the details with regard to the extent of the site in which the building has been constructed. The learned Rent Controller also has

not given any findings as to the extent of the site. As per Section 4 (2) and (3) of the Rent Control Act, the Rent Controller shall fix the fair rent by taking into consideration the total cost of such building. Sub-Section (4) of Section 4 of the said Act clearly says that the total cost shall consist of the market value of the site in which the building is constructed, the cost for construction of the building and the cost of provision of any one or more of the amenities specified in the Schedule as on the date of application for fixation of fair rent.

10. In this case, as already pointed out that the petitioner has not furnished the extent of the site in which, the building has been constructed. Hence, this Court is of the view that the matter shall be remitted back to the Rent Controller to enable the petitioner to amend the petition by mentioning the details of the building including the extent of the site in which the building has been constructed.

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11. In the result, this Civil Revision Petition is allowed. No costs. The order passed by the Rent Controller and Rent Control Appellate Authority are set aside and the matter is remitted back to the Rent Controller. The Rent Controller is directed to give an opportunity to

the respondent/landlord to amend the petition by giving the particulars with regard to the building including the site in which the building has been constructed and thereafter, give an opportunity to the petitioner herein to file an additional counter, if any, and also, give opportunities to both sides to adduce additional oral and documentary evidence and dispose of the RCOP in accordance with law.

07.12.2020

Internet
dna

: Yes/No

To

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

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P. RAJAMANICKAM, J.

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