

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD)No.4191 of 2014

M/s.Jain Housing and Construction Ltd,
Rep.by its Vice President,
R.Vasudevan

... Petitioner

...Versus...

1.Pushpa Roche
2.Arul Denzil Roche

... Respondents

PRAYER:This Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23 of 1973, against the judgment and decree dated 01.04.2014 in R.C.A.No.652 of 2014, on the file of the VIII Judge, Court of Small Causes, Chennai, varying the order and decree passed in R.C.O.P.No.2377 of 2009 dated 15.10.2012 on the file of XII Court of Small Causes, Chennai.

For Petitioner

::

Mr.P.B.Balaji

For R1 and R2

::

Mr.S.R.Raghunathan

ORDER

The respondents herein are the landlords and the petitioner is the tenant.

2. For the sake of convenience, the parties are referred to as per ranking before the trial Court.

3. The respondents/landlords filed R.C.O.P.No.2377 of 2009 seeking fixation of fair rent for the petition premises situated in Door No.124, G.N.Chetty Road, T.Nagar, Chennai, together with proportionate undivided share in the land measuring two grounds and 724 square feet.

4. The brief averments of the petition is that for the office premises bearing No.124/A3 measuring a built up area of 1800 sq.ft., situate in ground floor and mezzanine floor of Sterling Point Building, at Door No.124, G.N.Chetty Road, T.Nagar, Chennai – 600 017, together with one toilet in the ground floor and another toilet in the Mezzanine floor and also two reserved car parks with 8% of Undivided share in the total land measuring 2 grounds and 724 sq.ft., the contract monthly rent was fixed at Rs.31,000/-

5. Based upon the Engineer's Report, they claimed Rs.1,11,000/- per month and according to P.W.1 Engineer, the rent was suggested at Rs.87,394/- per month as the land value was Rs.2,96,20,800/-.

6. Per contra, the petitioner/tenant contended that the rent for the said premises cannot be fixed at more than Rs.25,155/- per mensem and he has relied upon Exhibit R1-Sale Deed in respect of the property in the Thiyagaraya Road, T.Nagar, wherein the land was sold per ground at Rs.1,21,71,000/-

7. On consideration of both oral and documentary evidence, the Rent Controller has fixed the monthly rent at Rs.87,352/- per mensem and aggrieved against the said order, the tenant has filed R.C.A.No.652 of 2012 and on re-appreciation of the evidence on record, the Appellate Authority has held that the fair rent can be fixed at Rs.86,520/- per mensem and both the Authorities under the Act has fixed the land value at Rs.2,00,95,000/-. Aggrieved against the said order, the tenant has preferred this Civil Revision Petition.

8. Heard both sides.

9. The learned counsel for the tenant/revision petitioner submits that the Rent Control Authorities under the Rent Control Act has not properly appraised Ex.R1 Sale Deed which relates to the very same area and ought not to have fixed the fair rent at Rs.86,520/-.

10. Per contra, the learned counsel for the respondents/landlords relied upon the decision reported in (2014) 9 SCC 78 [Hindustan Petroleum Corporation Limited Vs.Dilbahar Singh] wherein, it was held that:-

43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the first appellate court/first appellate authority because on re-appreciation of the evidence, its view is different from the court/authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the court/authority below is according to law and does not suffer from any error of law. A finding of fact recorded by court/authority below, if perverse or has been

arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision of the order, the High Court shall not exercise its power as an appellate power to reappreciate or reassess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity."

11. With regard to the exercise of the revisional jurisdiction by the High Court the guidelines stipulated by the 5 member Bench would be of help to arrive at the fair rent.

12. On consideration of the documents filed before the Rent Controller and also taking note of the location of the building at Door No.124/A3 measuring of a built up area of 900 sq.ft situated in the ground floor and Mezzanine floor and the sale deed relied upon by the landlord under Ex.P3. Both the Authorities have rightly come to the land value and after going through the calculations as to the cost of construction and basic amenities, this Court finds that the fair rent fixed by the Appellate Authority is just and reasonable and it does not warrant any interference at the appellate stage and hence, this Civil Revision Petition is dismissed. It is further observed that the tenant has vacated the premises and suit has been instituted for the recovery of balance of rental dues. No costs.

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Index:Yes/No

Internet:Yes/No

Speaking Order:Yes/No

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To

1. The VIII Judge, Court of Small Causes, Chennai
2. The XII Court of Small Causes, Chennai.



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RMT.TEEKAA RAMAN,J.,

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