



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.03.2020

Coram

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P. (MD) .PD.No.2044 and 2151 of 2019

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H.Vasantha Kumar

... Petitioner/Tenant in both C.R.Ps

Vs.

1.A.Jabarulla Khan

2.J.Kamar Nisha

...Respondents /Landlords in
bothC.R.Ps

Prayer in C.R.P. (MD) .No.2044 /2019:Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as against the fair and decretal order dated 20.07.2018 in R.C.A.No.3 of 2017 on the file of the Rent Control Appellate Authority (Principal Subordinate Court, Madurai), dismissing the appeal and enhanced the fair rent fixed by the Rent Controller in R.C.O.P.No.260 of 2013, dated 22.10.2016 on the file of the Rent Control Tribunal (Principal District Munsif Court, Madurai).

Prayer in C.R.P. (MD) .No.2151 /2019:Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as against the fair and decretal order dated 20.07.2018 in R.C.A.No.35 of 2016 on the file of the Rent Control Appellate Authority (Principal Subordinate Court, Madurai), dismissing the appeal and enhanced the fair rent fixed by the Rent Controller in R.C.O.P.No.260 of 2013, dated 22.10.2016 on the file of the Rent Control Tribunal (Principal District Munsif Court, Madurai).

In both C.R.Ps:

For Petitioner

: Mr.D.Nallathambi

For Respondents

: Mr.K.Govi Ganesan

C O M M O N O R D E R

The respondents are the landlord. The petitioner is the tenant. The respondents filed a petition under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (hereinafter referred as Act) for fixation of fair rent. That petition was partly allowed by the Rent Controller and fair rent was fixed at Rs.3,00,000/- per month. Challenging the said order, the petitioner/tenant has filed an appeal before the learned Rent Control Appellate Authority in R.C.A.No.3 of 2017 and the landlords/respondents also filed an appeal before the learned Rent Control Appellate Authority in R.C.A.No.35 of 2016. Both the



appeals were taken together and the appeal filed by the tenant was dismissed and the appeal filed by the landlord was allowed, by fixing the fair rent at Rs.3,42,167/-. Challenging the said orders passed by the Rent Control Appellate Authority, the tenant has filed these present revision petitions before this Court.

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2.The learned counsel appearing for the revision petitioner has mainly contended that even though a Full Bench of this Court in **C.R.P.No.3092 of 1996, dated 07.04.2006, in the case of Sakthi & Co. through its partner, Veeranan vs. Shree Desigachary** directed guidelines, while fixing the fair rent, market value alone can be taken into consideration and while fixing the fair rent, other amenities have to be taken into consideration. The Rent Controller as well as the Rent Control Appellate Authority failed to consider the legal proposition as settled by the Full Bench. Again and again, the Rent Controllers and Appellate authorities have continued to follow the guideline value, for the purpose of fixing the fair rent. In this case, the learned Rent Controller as well as the learned Rent Control Appellate Authority have not followed the guidelines given by this Court as well as by the Hon'ble Supreme Court in various judgments. Further, both the authorities only considered the overruled judgments of this Court and fixed the fair rent, which warrants interference of this Court.

3.The learned counsel for the respondents would submit that the property is situated nearby the Meenakshi Temple and it is the prime locality and it is the centre and heart of the city of Madurai. Further, the respondents/landlords produced the documents of the year 2006. The learned Rent Controller, considered the said documents (Exs.P.2 to P.6) and fixed the fair rent, as per the guideline value of the Government/Public Works Department. The Rent Control Appellate Authority also followed the same principles and therefore, there is no illegality or irregularity in the order passed by the learned Rent Control Appellate Authority.

4.On a careful perusal of the records, the Rent Controller fixed the fair rent, based on the guideline value and not based on the market value. No doubt, the Rent Control Appellate Authority stated that both the parties not produced any document. If that be the case, the Rent Controller should have directed the petitioner to produce any document to show the market value or otherwise a report should have been called for from the Registration Department explaining the fact that in the present locality, whether the guideline value is higher than the market value or lower than the market value. In the absence of any document, the Rent Controller as well as the Rent Control Appellate Authority have to follow the principles laid down by the



Full Bench of this Court. Therefore, under the said circumstances, this Court feels that the Rent Controller has to redo the order passed by him, by following the decision of the Honourable Full Bench in the said revision. Hence, the order passed by the learned Rent Controller as well as the learned Rent Control Appellate Authority are set aside and the matter is remitted back to the Rent Controller to dispose of R.C.O.P.No.260/2013 afresh in accordance with law, by following the guidance of the Full Bench of this Court.

5.Since the matter is pending from 2013, the learned Rent Controller is directed to complete the proceedings in R.C.O.P.No.260/2013 afresh within a period of three months from the date of receipt of a copy of this order. In the meanwhile, the petitioner/tenant is directed to pay the admitted fair rent to the landlords.

6.In the result, both the civil revision petitions are allowed and the order passed by the learned Rent Control Appellate Authority (Principal Subordinate Court, Madurai) in R.C.A.Nos.3 of 2017 and 35 of 2016, dated 20.07.2018, are set aside.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.Rent Control Appellate Authority
(Principal Subordinate Judge), Madurai.

2.Rent Control Tribunal (Principal District Munsif)
Madurai.

+1 CC to Mr.D.NALLATHAMBI, Advocate (SR-12106[F] dated 17/03/2020)

C.R.P. (MD) .Nos.2044 and 2151 of 2019

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