

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).Nos.167 of 2009 and 1343 of 2010
& M.P.No.1 of 2009

- 1.V.J.John (died)
- 2.V.J.Williams
- 3.(Wilson Press Tools) substituted as
M/s Wilmac Engineering India Pvt. Ltd.,
Rep by its Proprietor
V.J.Williams
- 4.M/s Standard Spring and Seat Metals
Rep by its Proprietor
V.J.Williams
- 5.M/s Wilmac Engineering India Pvt. Ltd.,
Rep by its Proprietor
V.J.Williams
(now impleaded and substituted as 3rd petitioner)
- 6.William Remy

...Petitioners in
C.R.P.(NPD).No.167 of 2009
(5th petitioner was impleaded and substituted as 3rd petitioner by order of
this Court dated 27.01.2021)

Vs

- 1.R.Chinnasamy (died)
- 2.Kalavathi
- 3.Jayanthi
- 4.B.Manjula

...Respondents in
C.R.P.(NPD).No.167 of 2009

1.R.Chinnasamy (died)
2.Kalavathi
3.Jayanthi
4.B.Manjula

...Petitioners in
C.R.P.(NPD).No.1343 of 2010

Vs.

1.V.J.John (died)
2.V.J.Williams
3.(Wilson Press Tools) substituted as
M/s Wilmac Engineering India Pvt. Ltd.,
Rep by its Proprietor
V.J.Williams
4.M/s Standard Spring and Seat Metals
Rep by its Proprietor
V.J.Williams
5.M/s Wilmac Engineering India Pvt. Ltd.,
Rep by its Proprietor
V.J.Williams (now impleaded and substituted as 3rd respondent)
6.William Remy

...Respondents in
C.R.P.(NPD).No.1343 of 2010

(5th respondent was impleaded and substituted as 3rd respondent by order of this Court dated 27.01.2021)

Prayer in C.R.P.(NPD).No.167 of 2009: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in R.C.A.No.18 of 2008 dated 06.08.2008 on the file of the Sub Court, Coimbatore, confirming the order passed in R.C.O.P.No.183 of 2005 dated 19.09.2007 on the file of the Rent Controller cum Principal District Munsif Court, Coimbatore.

Prayer in C.R.P.(NPD).No.1343 of 2010: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the Rent Control Appellate Authority (Subordinate Judge's Court) at Coimbatore, dated 06.08.2008 in R.C.A.No.17 of 2008 confirming the fair and decretal of the Rent Controller (Principal District Munsif Court) at Coimbatore, dated 19.09.2007 in R.C.O.P.No.183 of 2005.

In C.R.P.(NPD).No.167 of 2009:

For Petitioners : Mr.B.Singaravelu

For Respondents : Mr.Mr.M.Ashwin Kumar for
M/s Sarvabhoulman Associates
for R2 to R4

In C.R.P.(NPD).No.1343 of 2010:

For Petitioners : Mr.Mr.M.Ashwin Kumar for
M/s Sarvabhoulman Associates

For Respondents : Mr.B.Singaravelu

COMMON ORDER

The Civil Revision Petitions have been filed

(i) to set aside the order passed in R.C.A.No.18 of 2008 dated 06.08.2008 on the file of the Sub Court, Coimbatore, confirming the order passed in R.C.O.P.No.183 of 2005 dated 19.09.2007 on the file of the Rent Controller cum Principal District Munsif Court, Coimbatore.

(ii)to set aside the order of the Rent Control Appellate Authority (Subordinate Judge's Court) at Coimbatore, dated 06.08.2008 in R.C.A.No.17 of 2008 confirming the fair and decretal of the Rent Controller (Principal District Munsif Court) at Coimbatore, dated 19.09.2007 in R.C.O.P.No.183 of 2005.

2.The petitioners in C.R.P.(NPD).No.167 of 2009 are the tenants. Petitioners in C.R.P.(NPD).No.1343 of 2010 are the landlords (herein after called as "tenants" and "landlords").

3.The landlords filed a petition in R.C.O.P.No.183 of 2005 for fixation of fair rent for the petition premises. The learned Rent Controller allowed the same and fixed the rent at the rate of Rs.36,100/- as monthly rent payable by the tenants. Aggrieved by the same, the landlords as well as the tenants filed appeals for enhancement of rent and to set aside the fair rent fixed by the learned Rent Controller, respectively. The learned Rent Controller Appellate Authority confirmed the fair rent fixed by the learned Rent Controller by an order dated 06.08.2008 in R.C.A.Nos.17 and 18 of 2008 and the fair rent shall be payable by the tenants from the date of order passed by the learned Rent Controller Appellate Authority by a common fair

and decretal order. Aggrieved by the same, both the Civil Revision Petitions are filed by the tenants and the landlords.

4.The learned counsel for the tenants submitted that the Courts below without even mentioning the construction area and vacant area of the above premises fixed the fair rent. He further submitted that when the landlords categorically admitted that part of the land in S.F.No.609/2I has been sold for a sum of Rs.30 lakhs, whereas, he estimated the total building value at the rate of Rs.60.5 lakhs. In the sale deed itself the extent of the petition premises was mentioned as 5344 sq.ft., whereas he has mentioned 5600 sq.ft., in respect of the petition premises.

5.Per contra, the learned counsel for the landlords submitted that though the learned Rent Controller fixed the fair rent at the rate of Rs.36,100/- payable by the tenants from the date of petition, without any basis, the learned Rent Controller Appellate Authority ordered to pay the fair rent from the date of the order passed by the Rent Controller Appellate Authority by the common order dated 06.08.2008 in R.C.A.Nos.17 and 18 of 2008.

6.Heard Mr.B.Singaravelu, learned counsel for the tenants and Mr.M.Ashwin Kumar, learned counsel for the landlords and also perused the materials available on record.

7.The landlords let out the premises to the tenants and finally the rent paid by the tenants at Rs.11,000/- per month. The value of the land raised and values at the rate of Rs.5.5 lakhs per cent and as such the entire petition premises is valued at Rs.60.5 lakhs. The building valued at the rate of Rs.50 lakhs. Therefore, the value of the entire property is fixed at Rs.10.5 lakhs. Accordingly, monthly rent would come at Rs.1.00 lakh. Thereby the landlords filed a petition for fixation of fair rent in R.C.O.P.No.183 of 2005. The tenants took a stand that the building aged about more than 35 years and depreciation at 35 % should be deducted from the value of the building and further in respect of electricity and other amenities were provided only by the tenants. The petition premises is consisting of two floors. Therefore, an Advocate Commissioner was appointed and his report along with rough sketch were marked as Ex.C1 and C2. In the Engineer's report, it is mentioned that the landlords premises is in the extent of 5600 sq.ft. In which the RCC building constructed to the

extent of 3261 sq.ft, ground floor as well as the 1st floor. Except 200 sq.ft of total plinth area of building remaining portion leased out to the tenants. As per the report of the Engineer the land valued per sq.ft as Rs.2043/-. The building was valued at Rs.30 lakhs. After deducting the portion occupied by the landlord, the building valued at Rs.25 lakhs and per sq.ft fixed at Rs.467.81/-. After deducting the land admeasuring 3261 sq.ft, the building valued at Rs.195,22,935/- and also deducting the depreciation, the value of the building valued at Rs.3608033.5/-. Accordingly calculated the fair rent at the rate of 12%, which comes around Rs.36,100/- per month. The landlords filed an appeal for enhancement of the fair rent only on the ground that the building value should be double the time and sought for fixing the fair rent as Rs.1 lakh per month. On perusal of records, the land value fixed at Rs.467 per sq.ft.,. After calculating the construction cost, the learned Rent Controller rightly fixed the monthly rent as Rs.36,100/-. However, when the learned Rent Controller Appellate Authority while confirming the rent fixed by the Rent Controller, directed the tenants to pay the same from the date of the order passed by the learned Rent Controller Appellate Authority, instead of date of petition, without any basis and reason.

8.In view of the above discussions, this Court finds no irregularity or infirmity in the orders passed by the Courts below, in respect of fixing the fair rent as Rs.36,100/- per month. In so far as the fair rent to be payable by the tenants, is hereby restored as per the order of the learned Rent Controller, namely, it should be paid from the date of petition for fixation of fair rent.

9.Accordingly, the Civil Revision Petition in C.R.P.No.167 of 2009 is dismissed. However, the C.R.P.No.1343 of 2010, is partly allowed. No costs. Consequently connected miscellaneous petition is closed.

27.01.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
1.The Sub Court, Coimbatore.
2.The Rent Controller cum
Principal District Munsif Court, Coimbatore.

C.R.P.(N.P.D).Nos.167 of 2009 and 1343 of 2010

G.K.ILANTHIRAIYAN.J,

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C.R.P.(N.P.D).Nos.167 of 2009 and 1343 of 2010
& M.P.No.1 of 2009

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