

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD)Nos.4123 & 4632 of 2015

C.R.P.(NPD).No.4123 of 2015:-

Indian Bank rep by its
Assistant General Manager,
Premises, Circle Office (Chennai North)
No.55, Ethiraj Salai,
Egmore,
Chennai - 600 008.

... Petitioner

Vs.

N.Vadivazhagi

... Respondent

Prayer:- Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act, to set aside the judgment and decree passed in RCA.No.52 of 2013 dated 23.09.2014 on the file of the VII Judge, Court of Small Causes Chennai confirming the order fixing fair rent in RCOP.No.1438 of 2008 dated 02.07.2012 on the file of the XIV Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.M.L.Sripathi

For Respondent : Mr.B.K.Sreenivasan

C.R.P.(NPD).No.4632 of 2015:-

N.Vadivazhagi

... Petitioner

Vs.

Indian Bank rep by its
Assistant General Manager,
Premises, Circle Office,
(Chennai North)
No.66, Rajaji Salai,
Chennai - 600 001.

... Respondent

Prayer:- Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act, to set aside the judgment and decree dated 23.09.2014 passed by the learned Rent Control Appellate Authority (VII Judge, Small Causes Court, Chennai) in RCA.No.571 of 2012 confirming the order fair and decretal order dated 02.07.2012 passed by the learned Rent Controller (XIV Judge, Small Causes Court, Chennai) and fix fair rent for the petition premises @ Rs.4,36,834/- per month, payable from the date of the petition in RCOP.No.1438 of 2008.

For Petitioner : Mr.B.K.Sreenivasan

For Respondent : No appearance

COMMON ORDER

Both Civil Revision Petitions are directed as against the fair and decretal order dated 23.09.2014 passed by the learned Rent Control Appellate Authority (VII Judge, Small Causes Court, Chennai) in RCA.Nos.52 of 2013 and 571 of 2012 respectively, confirming the fair and

decretal order dated 02.07.2012 passed by the learned Rent Controller (XIV Judge, Small Causes Court, Chennai) thereby fixing fair rent for the petition premises @ Rs.1,26,646/- per month.

2. The petitioner in C.R.P.No.4632 of 2015 (herein after called as "landlady") filed petition in R.C.O.P.No.1438 of 2008 for fixation of fair rent for the petition premises against the respondent in C.R.P.No.4632 of 2015 (herein after called as "tenant") herein. The learned Rent Controller fixed the fair rent for the petition premises at Rs.1,26,646/- per month payable by the tenant. Aggrieved by the same, the landlady filed appeal in RCA.No.52 of 2013 for enhancement of the fair rent and the tenant filed another appeal in RCA.No.571 of 2012 challenging the fair rent fixed by the learned Rent Controller. Both the appeals clubbed together and the learned Rent Control Appellate Authority dismissed both the appeals by confirming the order passed by the learned Rent Controller. Aggrieved by the same, the landlady as well as the tenant filed both the Civil Revision Petitions.

3. The learned counsel appearing for the landlady submitted that the petition premises situated at Door No.W100, Second Avenue, Anna Nagar, Chennai, comprised basement ad measuring 1,426 sq.ft., ground floor ad measuring 3,241.75 sq.ft., and first floor ad measuring 2,066.70 sq.ft., together with common area in the building and land. The learned Rent Controller fixed the land value as per Ex.R.5, which is smaller extent of property in the building constructed by the housing board. In fact, in the said complex, there is a liquor shop as such, its market value is very less compared to other nearby building. Whereas the landlady marked Ex.P.4 and Ex.P.6, the sale deeds in respect of the very same locality which have not been taken into consideration by the learned Rent Controller. If the market value of the land taken as per Ex.P.4 and Ex.P.6, the fair rent would come two times higher than the fair rent fixed by the learned Rent Controller.

4. Per contra, the learned counsel appearing for the tenant submitted that the landlady did not produce any documents to prove that there is schedule I amenities in the petition premises. Therefore, the learned Rent controller ought not to have taken 8% towards schedule I amenities for

the petition premises. The land value as per the Ex.R6 was taken into consideration to fix the land value of the premises and therefor the landlady should not increase the land value of Rs.1,18,08,000/- per ground as market value. He further submitted that already the tenant was paying a sum of Rs.1,06,861/- per month, which is fair rent and now the tenant vacated the premises and handed over the vacant possession to the landlady.

5. Heard, Mr.B.K.Sreenivasan, learned counsel appearing the for the landlady and M.L.Sripathi, learned counsel appearing for the tenant.

6. The petition premises is situated at Door No.W100, Second Avenue, Anna Nagar, Chennai and it consists basement portion, entire ground floor and part of the first floor ad measuring total extent of 6734.45 sq.ft. The tenant was paying monthly rent of Rs.1,06,861/- and it is nonresidential premises. The type of the building is Class 1 building and Schedule I amenities are available in the premises.

7. According to the landlady, the value of the land in the locality would be at rupees four crores per ground. To strengthen her contention, the

landlady marked two sale deeds as Ex.P.4 and Ex.P.5. The property in Ex.P.4 situated at Periyakoodal Village and the property in Ex.P.6 situated at Naduvakkarai Village. Both the properties situated one kilometer distance from the petition premises. Whereas, the tenant marked Ex.R.5, in which the property situated at second avenue, viz., next to the petition premises. Therefore the learned Rent Controller had taken Ex.R.5 to fix the land value of the petition premises and fixed the land value as R.1,18,08,000/- per ground.

8. The entire building of the premises valued at Rs.23,65,644/-. The basic amenities fixed at 15%. After deducting the depreciation for the building, the value of the building came to Rs.23,23,999/-. The land value for the extent of 1911.21 sq.ft., fixed as Rs.94,0,153/-. The schedule I amenities fixed at 8% and total amount came at Rs.1,26,64,568/-. Based on the Engineer's report for the nonresidential premises, the monthly rent was calculated at 12%. Accordingly the fair rent was fixed as Rs.1,26,646/-. Therefore, this Court finds no illegality or infirmity in the order passed by the Court below.

9. Accordingly, both the Civil Revision Petitions are dismissed.

There shall be no order as to costs.

29.01.2021

Index : Yes/No

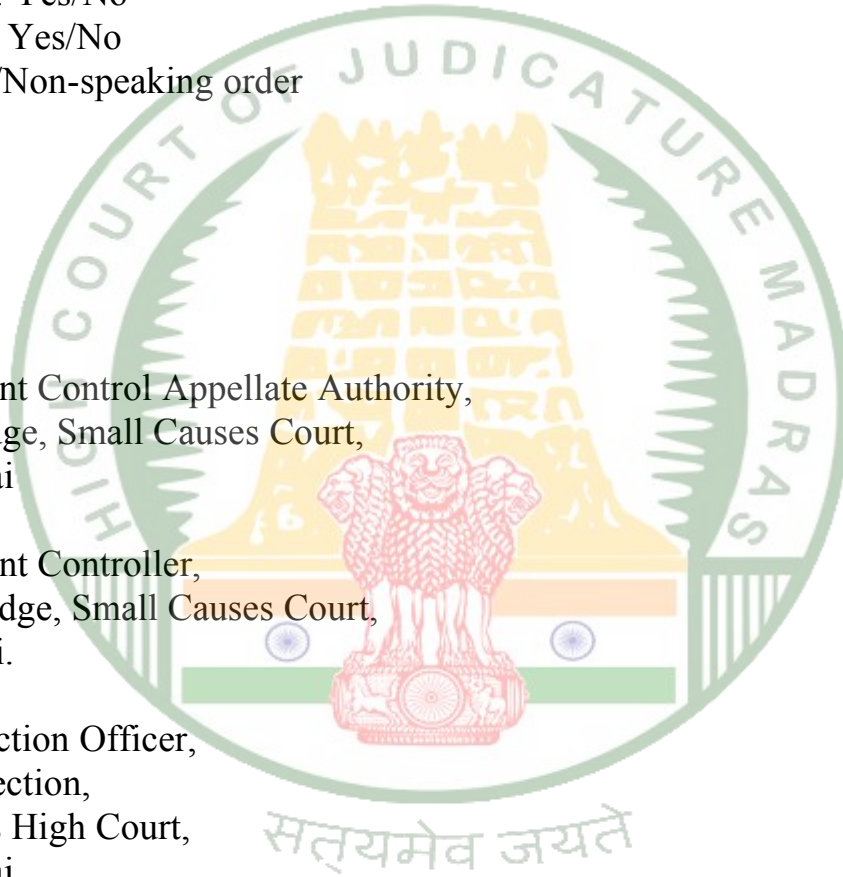
Internet : Yes/No

Speaking/Non-speaking order

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To

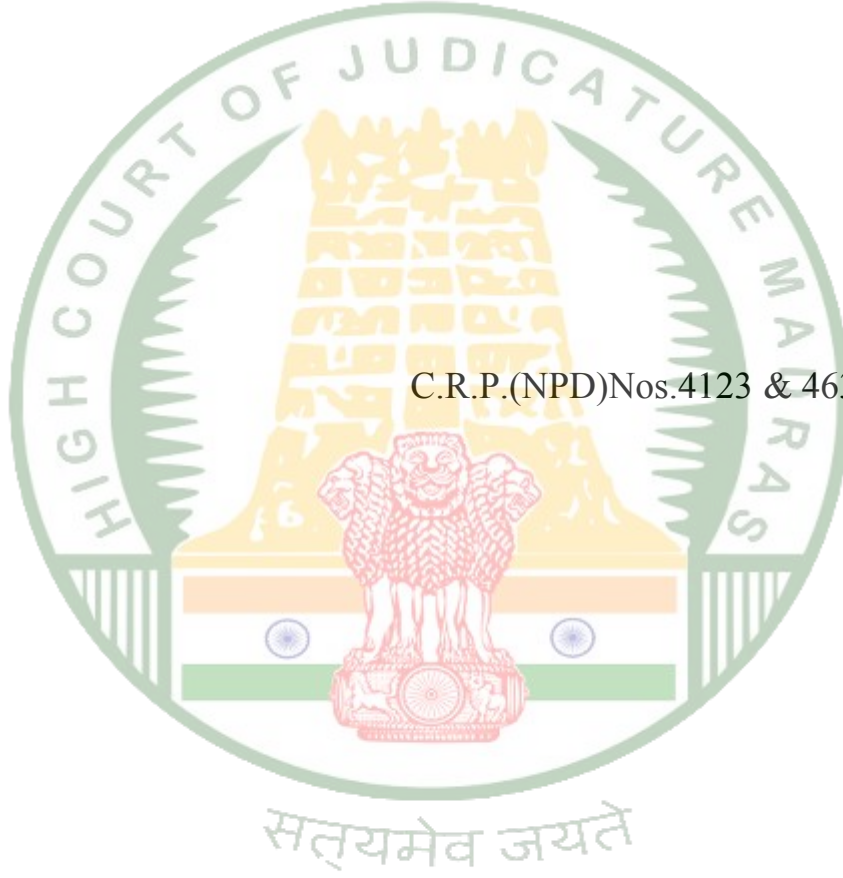
1. The Rent Control Appellate Authority,
VII Judge, Small Causes Court,
Chennai
2. The Rent Controller,
XIV Judge, Small Causes Court,
Chennai.
3. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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