

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2021

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

CRP.NPD.Nos.4753 to 4755 of 2015

CRP.NPD.No.4753 of 2015

Abdul Jawad

..Petitioner

Vs.

M.A.Jacob Furnishing,
Represented by its Proprietor M.A.Jacob,
No.35 (Old.No.47/22) Evening Bazaar,
Park Town,
Chennai- 600 003

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 against the common judgment in RCA.No.5 and 115 of 2004 and the decree dated 29.04.2014 made in RCA.No.5 of 2004 modifying the fair and decretal order dated 17.12.2003 passed in RCOP.No.358 of 2002 by the learned XVI Judge, Small Causes Court at Chennai.

For Petitioner : Mr.M.Kamalanathan

For Respondent : Mr.Thomas Jacob

CRP.NPD.No.4754 of 2015

Abdul Jawad

..Petitioner

Vs.

M.A.Jacob Furnishing,
Represented by its Proprietor M.A.Jacob,
No.35 (Old.No.47/22) Evening Bazaar,
Park Town,
Chennai- 600 003

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 against the common judgment and decree dated 29.04.2014 in MP.No.338 and 339 of 2012 in RCA.No.5 of 2004 passed by the learned VII Judge, Small Causes Court at Chennai

For Petitioner : Mr.M.Kamalanathan

For Respondent : Mr.Thomas Jacob

CRP.NPD.No.4755 of 2015

Abdul Jawad

..Petitioner

Vs.

M.A.Jacob Furnishing,
Represented by its Proprietor M.A.Jacob,
No.35 (Old.No.47/22) Evening Bazaar,
Park Town,
Chennai- 600 003

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 against the common

judgment and decree dated 29.04.2014 in MP.No.338 and 339 of 2012 in RCA.No.5 of 2004 passed by the learned VII Judge, Small Causes Court at Chennai

For Petitioner : Mr.M.Kamalanathan

For Respondent : Mr.Thomas Jacob

COMMON ORDER

This Civil Revision Petitions are arising out of common judgment in RCA.No.5 and 115 of 2004 and the decree dated 29.04.2014 made in RCA.No.5 of 2004 modifying the fair and decreetal order dated 17.12.2003 passed in RCOP.No.358 of 2002 by the learned XVI Judge, Small Causes Court at Chennai; common judgment and decree dated 29.04.2014 in MP.No.338 and 339 of 2012 in RCA.No.5 of 2004 passed by the learned VII Judge, Small Causes Court at Chennai; and common judgment and decree dated 29.04.2014 in MP.No.338 and 339 of 2012 in RCA.No.5 of 2004 passed by the learned VII Judge, Small Causes Court at Chennai

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2. The petitioner is the landlord, hereinafter called as landlord and the respondent is the tenant hereinafter called as tenant. The petitioner filed petition for fixation of fair rent for the petition premises.

The learned Rent Controller fixed monthly rent for the petition premises at Rs.8842/-. Aggrieved by the same, both landlord as well as the tenant filed appeal before the learned Rent Control Appellate Authority for enhancement of fair rent as well as setting aside the order fixing fair rent. The learned Rent Control Appellate Authority dismissed the appeal filed by the landlord for enhancement of fair rent and allowed the appeal filed by the tenant against the fixation of fair rent on the ground that the petition premises is a vacant land and as such Tamil Nadu Buildings (Lease and Rent Control) Act would not apply and only City Tenants Protection Act can apply. Aggrieved by the same, the landlord preferred civil revision petition in CRP.Nos.3814 of 2008 and 1720 of 2009 before this Court. This Court by common order dated 10.06.2011 allowed both the civil revision petitions and ruled out as follows:

"34.Since the appellate authority has disposed of the appeals holding that the Rent Control Act is not applicable and has not gone into the merits of other contentions put forth on either side, namely as to whether the fair rent fixed by the Rent Controller is correct or not, the matter has to be remitted back to the appellate authority for fresh disposal on merits.

35.Accordingly, the above CRP's are allowed setting

aside the common order of the appellate authority and the matter is remitted back to the appellate authority to decide the question of fair rent payable for the petition premises after giving an opportunity to both the sides."

3. Accordingly, the matters were remitted back to Rent Control Appellate Authority. The learned Rent Control Appellate Authority dismissed the appeal filed by the landlord for enhancement of fair rent fixed by the learned Rent Controller in RCA.No.5 of 2004. The learned Rent Control Appellate Authority allowed the appeal filed by the tenant challenging fixation of fair rent and modified the fair rent as Rs.3750/- per month thereby reduced the fair rent fixed by the learned Rent Controller from Rs.8842/-. While pending the appeal before the learned Rent Control Appellate Authority, the landlord filed petition to examine his engineer as PW3 and also seeking permission to produce additional evidence namely sale deed dated 17.03.2005 to assess the market value of the petition premises. The learned Rent Control Appellate Authority passed common order in MP.Nos.338 and 339 of 2012 as well as RCA.Nos.5 & 115 of 2004 thereby dismissing both the petitions. Aggrieved by the same, the landlord preferred CRP.No.4754 and 4755 of 2015. Therefore, the landlord failed to challenge the order passed by the

learned Rent Control Appellate Authority filed by the tenant challenging the fixation of fair rent and thereby modified the fair rent fixed by the learned Rent Controller.

4. In respect of the present civil revision petitions are concerned, the learned Rent Control Appellate Authority rejected the said request made by the landlord for the reason that the sale deed which is to be marked of the year 2005 whereas petition for fair rent filed in the year 2002. Therefore it cannot reflect the true position of the market value for the year 2002. In respect of examining an engineer as PW3 on the side of the landlord, the landlord already examined his engineer as PW2. Therefore, there is no need to examine another engineer. Therefore, this Court finds no irregularity or infirmity in the order passed by the learned Rent Control Appellate Authority in respect of dismissing the petition sought for examining PW2 as well as to produce additional evidence.

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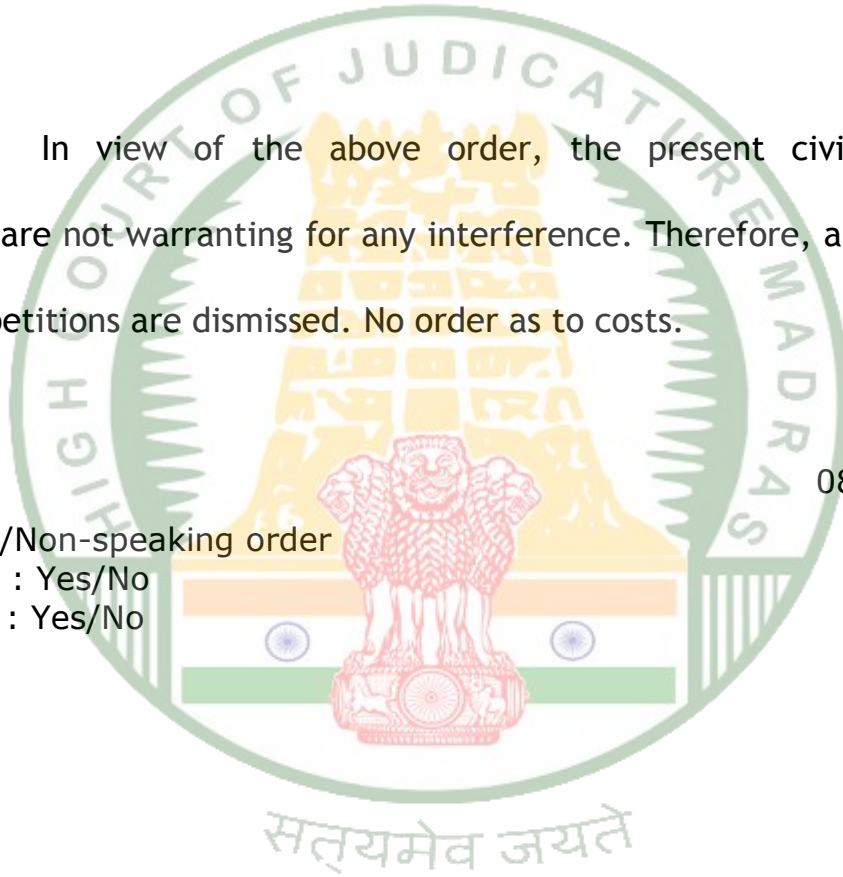
5. Insofar as civil revision petition filed as against the dismissal of enhancement of fair rent petition is concerned, the tenant already

filed appeal before the learned Rent Control Appellate Authority challenging fixation of fair rent, in which the learned Rent Control Appellate Authority reduced the fair rent fixed by the learned Rent Controller from Rs.8842/- to Rs.3750/- against which, no civil revision petition is filed.

6. In view of the above order, the present civil revision petitions are not warranting for any interference. Therefore, all the civil revision petitions are dismissed. No order as to costs.

08.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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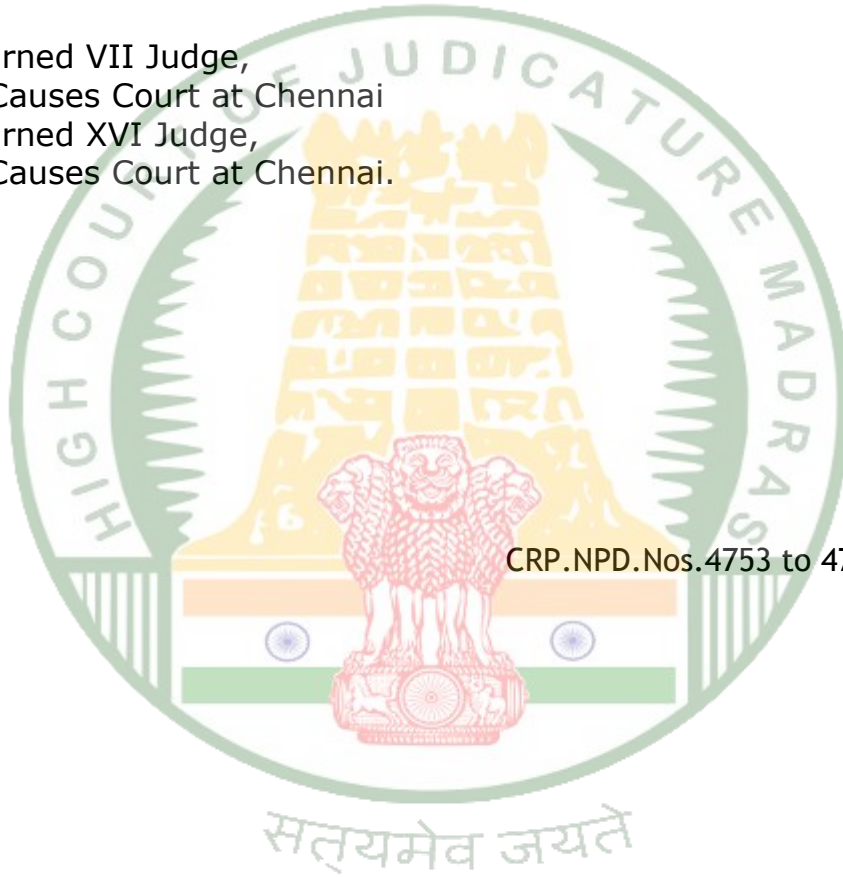
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G.K.ILANTHIRAIYAN,J.

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To

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



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