

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MRS. JUSTICE **V.BHAVANI SUBBAROYAN**

C.R.P.(PD) No.738 of 2021

and

C.M.P.Nos.6142 & 6143 of 2021

M/s.Central Bank of India,
Represented by the Chief Manager,
New Door No.17, Old No.5,
Luz Church Road,
Mylapore, Chennai - 4.

... Petitioner

Vs

1.C.Ramalingham

2.C.Sampath

... Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu (Lease & Rent Control) Act, 1960, to set aside the Order of the Learned Rent Controller Appellate Authority cum VII Small Causes Judges at Chennai dated 12.02.2021 in M.P.No.1 of 2021 in R.C.A.No.3 of 2021 preferred against the Fair and Decretal Order passed in M.P.No.170 of 2019 in R.C.O.P.No.1505 of 2018 on the file of the Learned XII Small Causes Court, Chennai and to allow the said M.P.

For Petitioner : Mr.T.M.Hariharan

ORDER

This Revision Petition has been filed by the petitioner challenging the order dated 12.02.2021 passed by the Rent Controller Appellate Authority, Chennai in MP.No.1 of 2021 in R.C.A.No.3 of 2021.

2. Originally R.C.O.P No.1505 of 2018 has been filed by the respondents herein for fixation of fair rent in respect of the petition tenancy portion.

3. The petitioner bank is the tenant in respect of the Entire Ground floor non residential tenancy portion at premises bearing New Door No.17, Old 5, Luz Church Road, Mylapore, Chennai, on the total monthly contractual rent of Rs.33,264/-. The tenancy building is with RCC roof and all the amenities have been provided to the petitioner bank. Considering all the amenities of the petition tenancy portion and in the light of the provisions of the Rent Control Act and Rules, the monthly fair rent of the petition tenancy portion is ascertained at Rs.3,72,923/- by the respondent herein. Since the petitioner Bank

refused to pay the fair rent, the respondent has filed petition under Section 4 of the Tamil Nadu Buildings, Lease and Rent Control Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980.

4. According to the petitioner Bank, they are Nationalised Bank and premier Public Sector Financial Institution carrying Banking business for the past several years all over the Country. According to the petitioner Bank, the allegations made by the respondents are not correct and the RCOP itself is speculative and the same is not maintainable. It is the case of the petitioner Bank that the premises leased out to them measures 1054 sq. ft along with 594 sq.ft. as parking area. However, the respondents, in the lease agreement, has erroneously reckoned that the carpet area is 2100 sq.ft. Therefore, the claim that the petitioner Bank is occupying the entire Ground Floor portion measuring 2700 sq.ft is erroneous. Further, the respondents have not even provided basic amenities to the petitioner Bank. According to the petitioner Bank, all the allegations made against them are totally baseless and self serving. The allegation that market value of land in and around the petition premises is found to be Rs.3,40,000/- per 2400 sq. ft. is puerile and

bereft of any material particulars.

5. Pending R.C.O.P., MP.No.170 of 2019 was filed by the petitioner Bank to appoint an Advocate Commissioner with the assistance of a qualified Engineer to note down the physical features of the premises in possession of the petitioner Bank. The said petition was dismissed by the Rent Controller vide order dated 17.3.2020. Against which, RCA No.3 of 2021 has been filed by the petitioner Bank. Pending RCA, the petitioner Bank also filed M.P.No.1 of 2021 seeking to grant stay of all further proceedings in R.C.O.P.No.1505 of 2018, on the file of the learned Rent Controller cum XII Small Causes Court, Chennai. The Rent Controller Appellate Authority, while refusing to grant interim stay, has ordered notice to the respondents. Aggrieved over the said order, the petitioner Bank is before this Court with this Revision petition.

6. The learned counsel for the petitioner Bank submitted that the respondents have not provided even basic amenities to the petitioner Bank and all the renovation work was done by the petitioner Bank at

their own cost. The learned counsel for the petitioner Bank further submitted that though *prima-facie* case has been made out and balance of convenience is wholly in favour of the petitioner, the Appellate Authority has failed to grant interim stay. The learned counsel for the petitioner Bank further submitted that the Appellate Authority ought to have appreciated the fact that the respondents have made no objection for ordering the application filed before the learned Rent Controller. Therefore, the learned counsel for the petitioner Bank prays for allowing the revision.

7. Heard the learned counsel for the petitioner Bank and perused the materials available on record.

8. It appears that the petition premises is in possession of the petitioner Bank. It is an admitted fact that the petition tenancy land belongs to Temple Authority and the building comprised of ground, first and second floor built over the petition tenancy land belonged to the respondents. It is the case of the respondents that the temple authorities have fixed the monthly fair rent and they are demanding the same from

the respondents. It is also the case of the respondents that they had underwent lot of realignment in the petition premises and also provided basic amenities to the petitioner Bank.

9. But it is the case of the petitioner Bank that no realignment and development activity was carried out by the respondents in the petition premises for the past 30 years and the petitioner Bank alone had renovated the petition premises. Further, the market value ascertained by the respondents for fixing the fair rent is also denied by the petitioner Bank. According to the petitioner, the calculations made in the petition regarding the extent of premises, amenities and rates that are applied are totally incorrect and erroneous.

10. In such circumstances, it is clear that the allegations made by the petitioner Bank as well as the respondents have to be established by adducing conclusive evidence or conclusive proof. Further, it is evident that no prejudice would be caused to the petitioner Bank if interim stay is not granted to them. Therefore, in my considered opinion, no *prima facie* case has been made out by the petitioner Bank to allow this revision

and the Rent Controller appellate authority is right in coming to the conclusion that the allegations made by the petitioner Bank require strict proof. The revision petition fails and the same is, accordingly, dismissed.

No costs. Consequently, connected miscellaneous petitions are closed.

31.03.2021

Index: Yes/No
Speaking order/Non Speaking order
sbn

To

1. The VII Small Causes Court,
Chennai.
2. The XII Small Causes Court,
Chennai.

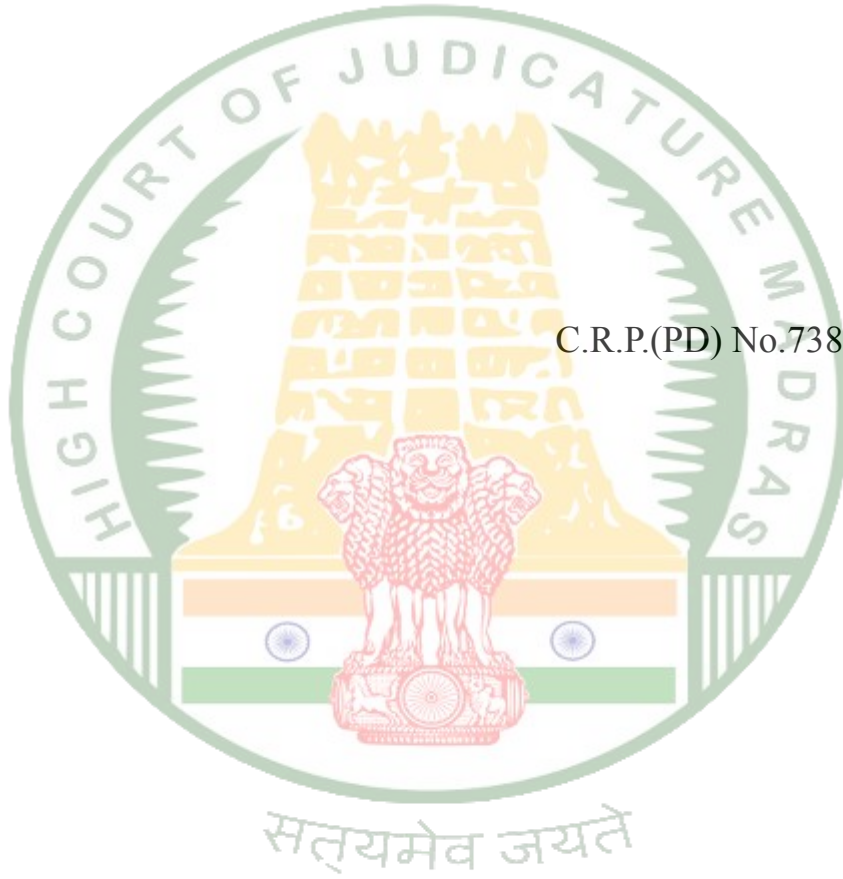


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