IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.09.2021

PRONOUNCED ON : 22.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) No.2069 of 2019
and C.M.P. Nos.13353 of 2019 & 13250 of 2021

G.Ganesan	...	Petitioner / Tenant

versus

P.V.Rajapandi	...	Respondent / Landlord

PRAYER: Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960, to set aside the judgment and decree in R.C.A.No.5 of 2015 dated 03.01.2019 on the file of the learned Principal Subordinate Judge, Chengalpattu, confirming the order and decreetal order in R.C.O.P.No.2 of 2013 dated 18.08.2015 on the file of the learned Rent Controller / District Munsif, Chengalpattu.

For Petitioner	:	Mr.K.M.Vijayan Senior Counsel
For Respondent	:	Mr.V.Parthiban

ORDER

This Civil Revision Petition is filed challenging the judgment and decree of the learned Rent Control Appellate Authority / Principal Subordinate Judge, Chengalpattu in R.C.A.No.5 of 2015, confirming the order of the learned Rent Controller / District Munsif, Chengalpattu in R.C.O.P.No.2 of 2013.

2. The tenant has preferred this Civil Revision Petition. The landlord has preferred R.C.O.P.No.2 of 2013 under Section 4[1] and [2] of the Tamil Nadu Buildings [Lease and Rent Control] Act.

3. The case of the respondent / landlord, in brief, is as follows;

3.1. The respondent is the owner of the premises measuring an extent of 3168 sq.ft. together with 1321 sq.ft. of built up area, bearing Door No.9, MIG-31, Vallal Ori Street-1, NH-1, Maraimalai Nagar - 603 209, Chengalpattu Taluk, Kancheepuram District. The present monthly rent for the premises was Rs.4,100/-. The demised premises situated in the heart of Maraimalai Nagar Municipal Town, surrounded by G.S.T. Road, Railway line running from Chennai to Southern District of Tamil Nadu, Mahindra World City one of the largest Special Economic Zones. There are many Industrial areas, in which, Multinational Companies, such as, Ford, B.M.W., I.T.Nagar, S.R.M. University, situate within the demised premises. The present rent paid at Rs.4,100/- is very very low. The prevailing fair rent would be Rs.39,244/- per month, in that locality. The respondent valued the demises premises with the assistance of Civil Engineer and he has given Report stating that, the fair rent for the demised premises comes to Rs.33,000/- per month. Therefore, this petition.

4. The petitioner denied the claim made by the respondent with regard to the location of the building, the facilities available and claim that, the demised premises, is in the remote and undeveloped corner of Maraimalai Nagar and it is a very old building. The Engineers Report has given blotting up the value of the demised premises. The value adopted for arriving at the fair rent, is not correct. The petitioner paid an advance of Rs.25,000/-. He dug out a borewell and installed a jet motor to get water supply to the premises. The expenses incurred was deducted from the rent paid. The building was constructed in 1991. At the time of occupation by the petitioner, it was 14 years old building, with mosaic floor. The premises was not habitable. The petitioner spent Rs.70,000/- for repairing works, polishing mosaic floors and whitewashing. Only then, it has become habitable. The respondent is liable to reimburse a sum of Rs.70,000/- spent on repairing and other works. The rent paid now is reasonable and there is no need to fix the fair rent.

5. During enquiry before the learned Rent Controller, P.W.1 and P.W.2 were examined, on the side of the respondent. R.W.1 was examined on the side of the petitioner. Ex.P.1 to Ex.P.3 were marked on the side of the respondent and Ex.R.1 to Ex.R.10 were marked on the side of the petitioner. On considering the documents perused and the rival submissions, the learned Rent Controller fixed the fair rent at Rs.33,000/- per month. The tenant has preferred R.C.A.No.5 of 2015.

6. In the appeal, the respondent filed I.A.No.44 of 2018 for production of additional documents. The learned Rent Control Appellate

Authority, considered the petition to receive the additional documents and also the rival submissions on fixation of fair rent by the learned Rent Controller and concluded that, the fair rent fixed by the learned Rent Controller at Rs.33,000/- per month, is correct and does not warrant any interference. The petition to additional documents was dismissed. Against the dismissal of R.C.A.No.5 of 2015, the tenant has preferred this Revision.

7. The learned counsel for the petitioner mainly focussed on the scope and relevancy of Section 4 of the Tamil Nadu Buildings [Lease and Rent Control] Act in the light of changed circumstances. This Rent Control Act was enacted in 1960, amended in 1973 and in 1980. Considering the need exist now, the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960, is repealed and replaced by the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. This Act has no provision for the fixation of fair rent. In view of the fact that, the value of the land, is ever increasing geometrically, there is unreasonable increase in the fair rent.

8. In the case on hand, the agreed rent was Rs.4,100/- and now the fair rent is fixed as Rs.33,000/-. It is an abnormal and too high an increase. In view of the introduction of the new Act, the old Act has become obsolete. Fixation of fair rent under Section 4 of the Tamil Nadu Buildings [Lease and Rent Control] Act, has to be interpreted with the changing needs. It is also submitted that the value adopted for the building and land, is not correct and not in accordance with the scientific method. Therefore, the learned counsel for the petitioner prayed for setting aside the order of the learned trial Judge and dismissing the fair rent petition.

9. In response, the learned counsel for the respondent submitted that, the petition for fixation of fair rent was fixed in 2013. The petition was allowed in 2018. The petitioner is still paying the old rent of Rs.4,100/- per month. Section 4 of the Tamil Nadu Buildings [Lease and Rent Control] Act, is kept in the Act only with a view to ensure that the building gets fair rent. The fair rent is fixed not for the landlord or tenant, but for the building. The proceedings initiated under the old Act, is saved by Section 47 of the New Act. The fair rent was fixed taking into consideration of the oral and documentary evidence produced by both the parties. The respondent produced documentary evidence to show the value of the building and the value of the land. However, the petitioner has not produced any document to show the value of the land. Therefore, he cannot now complain that the fair rent fixed by the learned Rent Control Appellate Authority, is not correct and in consonance with law. Thus, he prayed for confirming the order of the learned Rent Control Appellate Authority and for dismissal of this Civil Revision Petition.

10. Considered the rival submissions and perused the records.

11. As already narrated, in the enquiry, before the learned Rent Controller, the landlord produced Ex.P.1 Valuation Certificate to show the valuation of the building and the suggested fair rent. Ex.P.2 Sale Deed was produced to show the market value of the land in and around the demised premises. The document produced by the petitioner show that, these documents had been filed only to show the expenses incurred by the petitioner for effecting the repairs and other maintenance work. The rental advance receipt also filed. Apart from these documents, the petitioner has not produced any document to show the value of the land, nor did he make any attempt to get the submission of the Engineer's report on assisting the Court for fixing the fair rent for the premises. Left with no option, both the learned Rent Controller and the learned Rent Control Appellate Authority, placing on the evidence of the respondent and P.W.2 Engineer, fixed the fair rent.

12. Ex.P.1 and Ex.P.2 are the documents for fixing the fair rent in this case. Ex.P.2 is the sample Sale Deed. The property covered under Ex.P.2 situates near the demised property in Plot No.MIG-55. This property is the similar kind of property like the demised premises. The petitioner has not produced any sample Sale Deed to help the Court in fixing the market value of the land of the demised premises. P.W.2 Engineer has taken Ex.P.2 Sale Deed for fixing the land value of the demised premises. Ex.P.1 Valuation Report is the elaborate report giving details about the factors taken into consideration for arriving at the fair rent. The perusal of this report shows that the value of the property was assessed by land and building method. In this method, the value of the land was arrived based on the recent sale and the value of the building was arrived from the Tamil Nadu Public Works Department Rate. Amenities charges are arrived as per the existing amenities. Suitable depreciation was given to the age of the building. Thus, the total value of the property was arrived at by adding the assessed value of land, building and amenities.

13. The total area of the premises measures 3168 sq.ft. The built up area is 1321 sq.ft. The value of the land of Plot No.MIG-55, is Rs.23,50,000/- for an extent of 1320 sq.ft. The value of the land in the property in Plot No.MIG-55, was taken as reference for fixing the value of the land of the petition premises. The reference property has 40 feet wide road but the petition property has only 20 feet wide road. A discount of 10% was applied on the market value and the market value was fixed at Rs.1,600/- sq.ft. Taking into account, the excess land available, the area was taken for fixing the fair rent at Rs.1,980/- sq.ft and thus, the value of the land was arrived at Rs.31,68,000/-. PWD rate for Class "A" Type-1 building was adopted and the cost of building was arrived at Rs.7,03,807/-. The amenities at the rate of 7.5% for internal water supply, 7.5% for internal sanitary arrangements, 10% for internal electrical installations were given. The amenities comes to Rs.1,58,356/-. The sum of Rs.63,343/- was allotted for external amenities. Rs.2,00,000/- was given for schedule-I amenities. The cost of amenities for value of excess land was arrived at Rs.19,00,800/-. The total cost of amenities was arrived at Rs.6,14,026/-. The value of the building including amenities was fixed at Rs.15,39,532/-. Depreciation @ 1% was given for 22 years. After depreciation, the net value of the building was arrived at Rs.12,34,705/-. The value of the land and value of the building comes to Rs.44,00,000/-. Since the building is a residential building, the fair rent was calculated at 9% and arrived the fair rent at Rs.3,96,000/- per annum. The fair rent for the building was fixed at Rs.33,000/- per month. This report was marked as Ex.P.1. P.W.2 was examined in support of this report. In the absence of any other evidence produced on the side of the petitioner like sample Sale Deed or Engineer's Report, the learned Rent Controller adopted Ex.P.1, Ex.P.2 produced by the respondent and fixed the fair rent at Rs.33,000/-.

14. In appeal, the learned Rent Control Appellate Authority has reconsidered the evidence extensively, on the point of area of the land, area of the building, age of the building, value of the land, value of the building, amenities, depreciation and found that, in the absence of any other material except Ex.P.1, the Court has no option except to rely on Ex.P.1, Ex.P.2 and the oral evidence of parties for fixing the fair rent. Certain portions of evidence of P.W.1, P.W.2 and R.W.1 had been extracted. P.W.1 and P.W.2 have corroborated Ex.P.1 report and Ex.P.2 Sale Deed. It is seen from the evidence of R.W.1, the petitioner herein that he has a building of his own within half a kilometre from the petition property. He admitted that there are several Establishments, Banks, Sipcot, 100 of companies near the demised premises. He had not taken any steps for getting the report of the Engineer for helping the Court in fixing the fair rent or from P.W.D.

15. When he was asked as to whether the guideline value of the property is Rs.1780 per sq.ft., he stated that he did not know about this value. Thus, it is clear from the evidence of R.W.1, the demised premises is located in a place surrounded by Institutions, Companies, Establishments, Railway Stations, Bus Stand, etc. As already said, Ex.P.1 report is very extensive and he has been taken into consideration for all the relevant aspects in terms of Section 4 of Tamil Nadu Buildings [Lease and Rent Control] Act, for fixing the fair rent for the premises at Rs.33,000/- per month. Both the Courts below have appreciated Ex.P.1 report, in the light of the evidence produced before the Court and accepted Ex.P.1 report in arriving the fair rent at Rs.33,000/- per month. The order of both the learned Rent Controller and learned Rent Control Appellate Authority, do not suffer from any perversity in appreciation of evidence. Therefore, this Court finds no reason to interfere with the orders of fair rent fixed by the Courts below.

16. So far as the submissions made by the learned counsel for the petitioner with regard to the fact that, in view of the introduction of the new Act, the old Act has become obsolete; the fact that, the land value is increasing rapidly resulting in huge disparity in agreed rent and fair rent; the Court has to interpret Section 4 of the Tamil Nadu Buildings [Lease and Rent Control] Act to the changing needs, this Court is of the considered view that, when there is an act and when there is specific provision with regard to the fixation of fair rent, the guidelines given in the Act for fixing the fair rent cannot be thrown out of consideration, merely for the reason that, the land value is increasing abnormally. There is no specific provision in the new Act for fixing the fair rent. As rightly pointed out by the learned counsel for the respondent that, the proceedings initiated under the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960 is saved by Section 47 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. Therefore, the respondent is entitled to proceed with the present litigation as per the provisions of Section 4 of the Tamil Nadu Buildings [Lease and Rent Control] Act.

17. In such view of the matter, this Court finds no reason to interfere with the judgment of the learned Principal Subordinate Judge, Chengalpattu, in R.C.A.No.5 of 2015 dated 03.01.2019 and the judgment, is hereby confirmed.

18. Resultantly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

22.09.2021

Speaking order / Non-speaking order
Index : Yes

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To

1.The Principal Subordinate Judge,
Chengalpattu.

2.The District Munsif,
Chengalpattu.

G.CHANDRASEKHARAN, J.

sri

Pre-Delivery Order made in C.R.P. (NPD) No.2069 of 2019 and C.M.P. Nos.13353 of 2019 & 13250 of 2021

22.09.2021