

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2021

CORAM

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

CRP.PD.No.688 of 2018

and

CMP.No.3581 of 2018

G.Ravi

..Petitioner

Vs.

1. A.P.Govindaswaminathan

2. A.P.Arun Kumar

..Respondents

PRAYER: The Civil Revision Petition is filed under Section 25 (1) of the Tamil Nadu Buildings Lease and Rent Control Act, 1960, praying to set aside the Judgment and decree made in RCA.No.51 of 2007 dated 14.11.2017 on the file of the IX Small Causes Court at Chennai confirming the RCOP.No.1982 of 2002 on the file of the XI Judge, Small Causes Court, Chennai.

For Petitioner : Mr.P.Gunaraj

For Respondents : Mr.S.William

WEB COPY

ORDER

This Civil Revision Petition is filed to set aside the Judgment and decree made in RCA.No.51 of 2007 dated 14.11.2017 on the file of the IX Small Causes Court at Chennai confirming the RCOP.No.1982 of 2002 on the file of the XI Judge, Small Causes Court, Chennai, thereby fixing the fair rent.

2. The petitioner is the tenant and the respondents are the landlords. The landlords have filed a petition for fixation of fair rent for the premises rented out to the tenant. The petitioner's premises is a shop situated at Shop No.9, Door No.51, Venkatranarayana Road, T Nagar, Chennai – 17 admitted the contractual rent of the said premises at Rs.1000/- and a shop ad measuring 245 Sq.ft. Therefore, the landlord prays for fixation of the fair rent at Rs.7,853/-.

3. Resisting the same, learned counsel for the tenant filed a counter stating that he is running a cycle shop under the name and style of “Divya Cycle Shop”. The petition premises is less than 245 Sq.ft. The petition premises is not provided with all basic amenities like water supply,

drainage or toilet facilities. Therefore, the land value is very less and it would not have the value of Rs.60 lakhs as contended by the landlord.

4. On the side of the landlord, P.W.1 to P.W.6 were examined and six documents were marked as Ex.P.1 to Ex.P.6. On the side of the respondents, no one was examined and no exhibits were marked.

5. On perusal of the order passed by the Rent Control Appellate Authority, the Rent Controller fixed the monthly rent at Rs.5,427/- payable by the tenant. Aggrieved by the tenants before the learned Rent Control Appellate Authority, the delay of three years in RCA proceedings, the appeal was dismissed for default. Thereafter, it was restored and the Rent Controller Appellate Authority dismissed the appeal on 14.11.2017 and confirmed the order passed by the Rent Controller. Aggrieved by the same, the tenant filed this petition.

6. The learned counsel for the petitioner/tenant submitted that the petition premises is a very small premises and the fair rent fixed by the Rent Controller is very high and it is liable to be reduced. Further, before the

learned Rent Controller, the tenant never appeared before the Rent Controller Appellate Authority and also did not engage any counsel to appear before the Rent Controller Appellate Authority. The tenant declined his signature and colluded with the landlord and to allow the petition for fixation of fair rent. Though the tenant specifically had taken a plea before the Rent Controller and the Appellate Authority that he had not signed in the vakalat, the same was not considered. However, the learned Rent Controller Appellate Authority sent the Vakalat for expert opinion to find out the truth. Therefore, he prays for setting aside the order passed by the Court below.

7. Per contra, the learned counsel for the respondents/landlord submitted that the RC filed after a period of three years even after numbering the RCA, it was dismissed for default and thereby restored RCA.No.51 of 2007 and the same was disposed on 14.11.2017. The tenant filed the present petition and granted interim stay on condition that the tenant is directed to pay to the respondents for a sum of Rs.2,500/- as arrears of rent for the petition premises. The said order was not complied with. Therefore, the present Civil Revision Petition deserves to be

dismissed for non-compliance of the said order.

8. The landlord filed a petition for non-payment of fair rent fixed by the Rent Controller and the same was allowed. After filing execution petition, the tenant evicted the premises in respect of arrears of fair rent. The landlord filed a suit for recovery of money and it is pending.

9. Heard both sides.

10. The tenant had taken a stand that who was not appeared before the Rent Controller and his signature was challenged and filed vakalat by him. Therefore, he was not given opportunity before the Rent Controller deny the case of the landlord. It was elaborately discussed by the Rent Control Appellate Authority and found that all the signatures put up by the tenant are similar in nature and no forgery was committed before the Rent Controller. That apart, the appeal was filed with the delay of three years, even then, it was dismissed for default. Thereafter, it was restored and finally dismissed by the Rent Control Appellate Authority.

11. Insofar as the determination of fair rent is concerned, the contractual rent was fixed at Rs.1000/- in the year 2004. On the side of tenant did not examine any witness before the Rent Controller. The shop was located at Door No.51, Venkatranarayana Road, T Nagar, Chennai – 17, measuring at 245 Sq.ft and the fair rent is fixed at Rs.5,425/- per month is not huge amount and it is very meagre. The petition premises is located at the heart of the city and the Rent Controller rightly fixed the rent at Rs.5,425/- as per the calculation adopted as envisaged under the Act. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

25.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

dh

To

The XI Judge,

Court of Small Causes, Chennai.

G.K.ILANTHIRAIYAN,J.

dh



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