

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

C.S.No.582 of 2014

1.SP.Padmavathi
2.AR.N.Suppiah
3.SP.Arulappan

...Plaintiffs

Vs.

M/s.T.T.G. Industries Ltd.,
represented by its Director
Mr.V.Ravi Srinivasan
No.5, T.V.Street,
Chetpet, Chennai 600 031.

...Defendant

Plaint filed under Order IV Rule 1 of O.S. Rules read with Order VII Rule 1 of the Code of Civil Procedure, praying for judgment and decree against the defendant directing them to pay the plaintiffs.

(a) Rs.2,57,91,660/- (Rupees Two Crores Fifty Seven Lakhs Ninety One Thousand Six Hundred and Sixty Only) together with interest on Rs.1,15,36,439/- (Rupees One Crore Fifteen Lakhs Thirty Six Thousand Four Hundred and Thirty Nine Only) at 12% (Twelve percent) per annum from the date of plaint till the date of realization and

b) to pay the costs of the suit to the plaintiffs.

For Plaintiffs : Mr.B.K.Sreenivasan

For Defendant : Set ex-parte

ORDER

This suit has been filed for recovery of Rs.2,57,91,660/- together with interest on Rs.1,15,36,439/- at 12% per annum from the date of plaint till the date of realization and for costs.

2. The averments made in the plaint are in brief as follows:-

(a) The plaintiffs are the Landlady and Landlords of the premises bearing Door No.36, College Road, Chennai 600 006, (hereinafter referred to as 'Tenancy Premises') and the defendant Company was their tenant in respect of the said Tenancy Premises. The agreed contractual rent payable by the defendant Company for the tenancy premises, was Rs.27,000/- per month, excluding amenities charges and electricity consumption charges. The plaintiffs had filed RCOP.No.1268 of 2000 under Section 4 of the Tamil Nadu Building (Lease and Control) Act

1960 (hereinafter referred to as “Rent Control Act”), against the defendant Company, for fixation of fair rent. In the said RCOP, the learned Rent Controller had fixed fair rent at Rs.1,53,867/- per month payable from the date of the petition i.e., 28.07.2000. As against the said order, the plaintiffs preferred an appeal in RCA.No.977 of 2004 and the defendant had filed an appeal in RCA.No.1088 of 2004 on the file of the Rent Control Appellate Authority (VIII Judge Court of Small Causes, Chennai). The Rent Control Appellate Authority by a common judgment dated 01.08.2006 had dismissed the appeal filed by the plaintiffs in RCA.No.977 of 2004 and partly allowed the appeal filed by the defendant in RCA.No.1088 of 2004 and fixed the fair rent at Rs.84,321/- per month. Aggrieved by the same, the plaintiffs preferred two Civil Revision Petitions in CRP.(NPD).Nos.2698 and 3470 of 2007. The defendant also preferred a Civil Revision Petition in CRP.(NPD).No.2215 of 2008. This Court by the common order dated 09.11.2012 had allowed CRP.(NPD).Nos.2698 and 3470 of 2007 and dismissed the Civil Revision Petition in CRP.(NPD).No.2215 of 2008 and restored the order passed by the learned Rent Controller.

(b) The plaintiffs had filed another petition in RCOP.No.1571 of 2002 against the defendant herein for eviction. The said RCOP was allowed on 16.09.2003 and the said eviction order was confirmed by the Hon'ble Supreme Court of India. Pending Fair Rent Proceedings, on 25.02.2008, the defendant had handed over the vacant possession of the tenancy premises to the plaintiffs. The defendant was paying rent only at the agreed rate of Rs.27,000/- per month till possession was handed over to the plaintiffs. After deducting the rent which was paid by the defendant, the defendant is liable to pay a sum of Rs.1,15,36,439/- till the date of handing over the possession. Hence, the plaintiffs issued a Lawyer's Notice dated 15.03.2013 calling upon the defendant to pay the aforesaid amounts with interest at the rate of 12% per annum. Though the defendant had received the said notice, did not come forward to pay the amount nor sent any reply. Hence, the plaintiffs were constrained to file the present suit claiming Rs.2,57,91,660/- with subsequent interest on Rs.1,15,36,439/-.

WEB COPY

3. The defendant has not filed written statement within the time and hence, they filed an application in A.No.4651 of 2019 to condone

the delay of 1686 days in filing the written statement. This Court by the order dated 08.07.2019 had allowed the said application on a condition that the defendant has to deposit a sum of Rs.50,00,000/- to the credit of the suit on or before 09.08.2019. Feeling aggrieved by the said order, the defendant had filed an appeal in OSA.No.191 of 2019. The Hon'ble Division Bench of this court, by the judgment dated 12.12.2019, had dismissed the said appeal and thereby, confirmed the order passed in A.No.4651 of 2019. As against the said judgment, the defendant herein had filed SLP.Nos.5609 and 5610 of 2020. The Hon'ble Supreme Court was pleased to dismiss the said SLPs by the order dated 13.10.2020. But the defendant did not comply with the conditional order of this court and hence the defendant has lost the right to defend the suit and consequently, the defendant has been set exparte. Thereafter, the matter was posted before the Master for recording evidence on the side of the plaintiffs.

4. The Master has recorded the evidence of PW1 and sent back the records to this Court for further orders.

5. Heard, Mr.B.K.Sreenivasan, the learned counsel for the plaintiffs.

6. The point for consideration is whether the plaintiffs are entitled to recover the suit amount?

7. The Point:-

A perusal of the records shows that one Mr.S.P.Shanmukanathan was examined as PW1 and he has stated that he is the younger son of plaintiffs 1 and 2 and younger brother of the third plaintiff. He also filed an Authorization Letter given by the first plaintiff for adducing evidence and the same has been marked as Ex.P1.

8. Ex.P2 (certified xerox copy of the order passed in RCOP.No.1268 of 2000 dated 05.07.2004 on the file of the Rent Controller (XII Judge of Small Causes Court, Chennai)) shows that the plaintiffs herein had filed an application under Section 4 of the Rent Control Act to fix the fair rent for the Tenancy Premises. The learned Rent Controller

allowed the said petition by the order dated 05.07.2004 and fixed fair rent at Rs.1,53,867/- per month with effect from the date of petition.

9. Ex.P3 (certified xerox copy of the order passed in RCA.No.1088 of 2004 on the file of the Rent Control Appellate Authority (VIII Judge of Small Causes Court, Chennai)) shows that the learned Rent Control Appellate Authority had partly allowed the appeal and fixed fair rent at Rs.84,321/-from the date of RCOP.

10. Ex.P4 shows that the plaintiffs herein had filed two Civil Revision Petitions in CRP.(NPD).Nos.2698 and 3470 of 2007 against the order passed by the Rent Control Appellate Authority and likewise, the defendant also filed CRP.(NPD).No.2215 of 2008 against the order passed in RCA.No.1088 of 2004. This Court by a common order dated 09.11.2012 had disposed of all the aforesaid Civil Revision Petitions and allowed the CRP.(NPD).Nos.2698 and 3450 of 2007 and dismissed the CRP.(NPD).No.2215 of 2008 and restored the order passed by the learned Rent Controller and fixed the fair rent at Rs.1,53,867/- per month.

11. It appears that as against the order passed by this Court in CRP.(NPD).Nos.2698 and 3470 of 2007 and CRP.(NPD).No.2215 of 2008, the defendant herein has not filed any appeal before the Hon'ble Supreme Court.

12. Ex.P5 shows that after disposal the aforesaid Civil Revision Petitions, the plaintiffs herein had issued a Lawyer's Notice on 15.03.2013 calling upon the defendant to pay the arrears of rent with interest at 12% per annum. Further Ex.P5 shows that the defendant had received the said notice.

13. According to the plaintiffs, eventhough the defendant had received the said notice, the defendant did not come forward to pay the arrears of rent and also failed to send any reply. To controvert the evidence of PW1, the defendant has not come forward to adduce any evidence. On the contrary, the application which was filed by the defendant to condone the delay of 1686 days in filing the written statement was dismissed and hence, it has to be presumed the defendant has no defense.

14. It is also to be pointed out that the plaintiffs have fairly conceded in their plaint that during the pendency of the Fair Rent Proceedings, the defendant had surrendered vacant possession on 25.02.2008 and till that date, the defendant had paid only agreed rent of Rs.27,000/- per month and the said amount has been given to credit towards arrears of rent and after giving such adjustment, the defendant is liable to pay a sum of Rs.2,57,91,660/- on the date of plaint.

15. Considering the oral and documentary evidence of the plaintiffs, this Court is of the view that the plaintiffs are entitled for recovery of the aforesaid amount and accordingly this point is answered in favour of the plaintiffs.

16. In the result, this suit is decreed as follows:-

a) That defendant is directed to pay a sum of Rs.2,57,91,660/- together with interest on Rs.1,15,36,439/- at 12% per annum from the date of plaint till the date of realisation and

P.RAJAMANICKAM, J.

dna

b) that defendant is directed to pay the cost of the suit to the plaintiffs.

19.01.2021

Speaking / Non-speaking Order
Index : Yes/No
dna

To

- 1.The XII Judge of Small Causes Court, Chennai.
- 2.The VIII Judge of Small Causes Court, Chennai.

सत्यमेव जयते

WEB COPY **C.S.No.582 of 2014**