

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM

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

CRP.NPD.Nos.3609, 3610, 963 & 952 of 2017

CMP.Nos.4796 & 4723 of 2017

CRP.NPD.No.3609 of 2017

P.M.H.Syed Mohamed

..Petitioner

Vs.

C.Mariammal

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decree of dismissal passed in RCA.No.257 of 2011 on the file of IX Small Causes Court, Chennai dated 27.06.2016 by confirming the fair and decretal order in RCOP.No.1143 of 2010 dated 25.02.2011 on the file of XII Small Causes Court, Chennai.

For Petitioner : Mr.A.Abdul Ravoof

For Respondent : Mr.K.Jayachandran

CRP.NPD.No.3610 of 2017

P.M.H.Syed Mohamed

..Petitioner

Vs.

T.Chockalingam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decree of dismissal passed in RCA.No.259 of 2011 on the file of IX Small Causes Court, Chennai dated 27.06.2016 by confirming the fair and decretal order in RCOP.No.1144 of 2010 dated 25.02.2011 on the file of XII Small Causes Court, Chennai.

For Petitioner : Mr.A.Abdul Ravoof

For Respondent : Mr.K.Jayachandran

CRP.NPD.No.963 of 2017

C.Mariammal

..Petitioner

Vs.

P.M.H.Syed Mohammed

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decree dated 27.06.2016 passed by the learned IX Judge, Court of Small Causes, Chennai in RCA.No.279 of 2011 against RCOP.No.1143 of 2010 on 25.02.2011 on the file of XII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.K.Jayachandran

For Respondent : Mr.A.Abdul Ravoof

CRP.NPD.No.952 of 2017

T.Chockalingam

..Petitioner

Vs.

P.M.H.Syed Mohammed

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decree dated 27.06.2016 passed by the learned IX Judge, Court of Small Causes, Chennai in RCA.No.281 of 2011 against RCOP.No.1144 of 2010 on 25.02.2011 on the file of XII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.K.Jayachandran

For Respondent : Mr.A.Abdul Ravooof

COMMON ORDER

The civil revision petitions are filed against the order and decree of dismissal passed in RCA.No.257 of 2011 on the file of IX Small Causes Court, Chennai dated 27.06.2016 by confirming the fair and decreetal order in RCOP.No.1143 of 2010 dated 25.02.2011 on the file of XII Small Causes Court, Chennai; against the order and decree of dismissal passed in RCA.No.259 of 2011 on the file of IX Small Causes Court, Chennai dated 27.06.2016 by confirming the fair and decreetal order in RCOP.No.1144 of 2010 dated 25.02.2011 on

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the file of XII Small Causes Court, Chennai; against the order and decree of dismissal passed in RCA.No.259 of 2011 on the file of IX Small Causes Court, Chennai dated 27.06.2016 by confirming the fair and decreetal order in RCOP.No.1144 of 2010 dated 25.02.2011 on the file of XII Small Causes Court, Chennai; and against the order and decree dated 27.06.2016 passed by the learned IX Judge, Court of Small Causes, Chennai in RCA.No.281 of 2011 against RCOP.No.1144 of 2010 on 25.02.2011 on the file of XII Judge, Small Causes Court, Chennai.

2. The petitioners in CRP.Nos.3609 and 3610 of 2017 is the landlord (hereinafter called as landlord). In CRP.Nos.952 and 963 of 2017, the petitioners are tenants (hereinafter called as tenants). The landlord filed RCOP petition for fixation of fair rent for two shops. The learned Rent Controller fixed fair rent at the rate of Rs.4,615 and Rs.9,000 respectively. Aggrieved by the same, both the landlords as well as the tenants filed appeal before the Rent Control Appellate Authority. The Rent Control Appellate Authority dismissed all the appeals filed by the landlords as well as the tenants. Aggrieved by the same, the present civil revision petitions are filed.

3. The learned counsel for the tenants submitted that according to the report submitted by the landlords' engineer, the land value calculated for the extent of 258 sq.ft of the plinth area, whereas the learned Rent Controller had taken into account in respect of the land value for the extent of 397 sq.ft in stead of 258 sq.ft and thereby fixed fair rent at the rate of Rs.9,000/- per month payable by the tenant.

4. On perusal of the engineer's report, which was marked as Ex.P1 dated 08.10.2020, the calculations are as follows:

Built up plinth areas

- | | |
|---|-----------------|
| a) G.floor godown area (RCC):522.50 sq.ft. @ Rs.429 sft | = Rs.2,24,152/- |
| b) F.floor office area (RCC):246.23 sq.ft. @ Rs.399/- sft. | = Rs. 98,245/- |
| c) Common staircase share (RCC):14.5 sq.ft @ Rs.350/- sft | =Rs. 5,075/- |
| d)1/8th share in third floor toilets (RCC):6 sq.ft @ Rs.460/- sft | = Rs. 2,760/- |

Add 20% for basic amenities	= Rs.3,30,232/-
	= Rs. 66,046/-

Depreciation @ 1% for 35 years (0.7034) (Rs.3,96,278/-) = Rs.2,78,760/-

LAND VALUE:

Apportioning the plinth areas for respective floors:

= (1/4th share x 104 sft + (246.23 sft - 104 sft) = 142.23 sft x 2/3rd share +
 (522.50 sft - 142.23 sft - 49.55 sft) = 330.72 sft/3 floors + 49.55 sft / 4 floors +
 14.5 sft) = 258 sft

$\frac{\text{Rs.96,44,650/-} \times 258 \text{ sft}}{2400}$ = Rs.10,36,799/-

Depreciation cost of construction + land value together
 = Rs.2,78,760 + Rs.10,36,799 = Rs.13,15,559/-
 Add 3% schedule - I amenities = Rs. 39,466/-

 = Rs.13,55,025/-

Fair rent @ 12% per annum for Non-residential purpose per month
 = Rs.13,550/-

5. The learned Rent Controller calculated the fair rent taking into account in respect of extent of the plinth area as 397.56 sq.ft. While taking into consideration of the cost of the construction, the ground floor and built up area of the ground floor at the rate of Rs.386/-, first floor at the rate of Rs.350/- and the common area staircase at the rate of Rs.350/- The cost of the construction fixed by the engineer's report is higher than the value fixed by the learned Rent Controller. Further there is no evidence to reduce the value of the cost of the construction. Though

the engineer calculated the fair rent with 20% of basic amenities, the learned Rent Controller reduced into 10% for the basic amenities and calculated accordingly.

6. The petition premises is situated at No.42, Venkatamaistry Street, Chennai-1. It is a commercial and residential area. The tenant occupied the portion in the ground floor as well as the first floor. It is situated on the main road and the entire area is commercial one and surrounded by wholesale business of all the articles. Therefore, though the learned Rent Controller had taken into account in respect of the plinth area as 397.56 sq.ft. instead of 258 sq.ft without any material, he reduced the value of the construction as well as the amenities. Therefore, this Court felt that the rent fixed by the learned Rent Controller is fair and does not warrant any interference of this Court.

7. As far as the other shop is concerned, the learned Rent Controller had taken into consideration the extent of the plinth area as 170.65 sq.ft. whereas the engineer's report stated that the total plinth area of the petition premises as 197.52 sq.ft. Further, for the cost of the construction as well as the basic amenities, the learned Rent Controller

reduced from the engineer's report and fixed at Rs.4,615/- per month. Though the learned Rent Controller reduced the land extent from 197.52 sq.ft. to 170.65 sq.ft., the construction cost of the building fixed at Rs.386/- per sq.ft and also taken into consideration 15% for basic amenities. Therefore, this Court finds that the fair rent by the fixed by the learned Rent Controller is correct and proper and does not warrant any interference by this Court.

8. Accordingly, all the civil revision petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

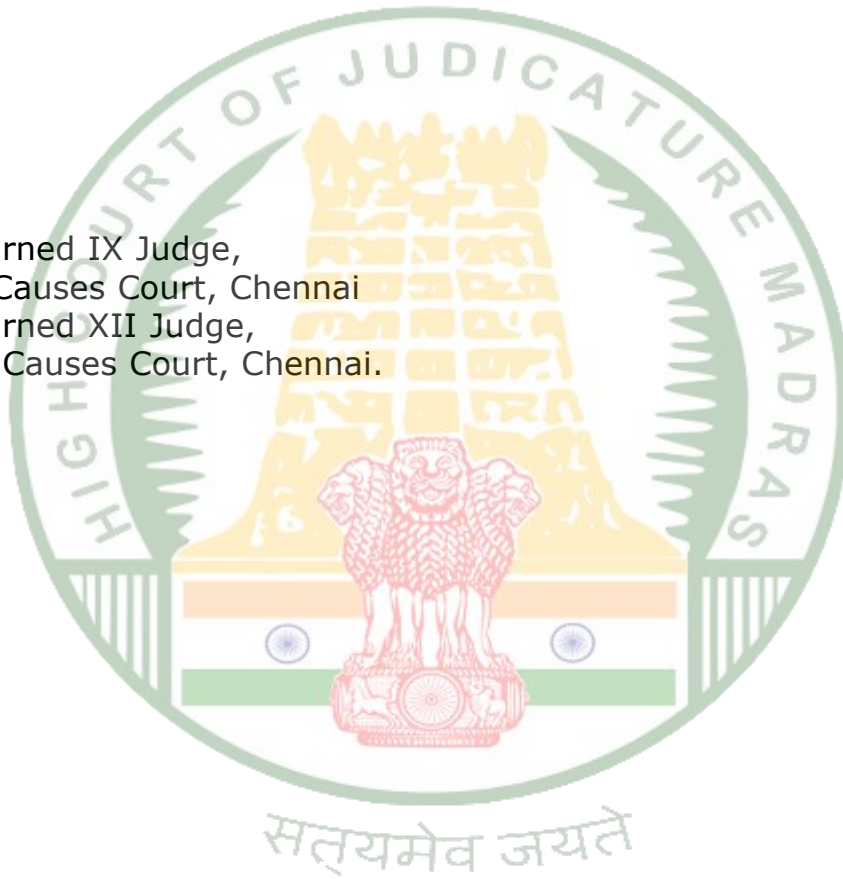
23.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To

- 1.The learned IX Judge,
Small Causes Court, Chennai
- 2.The learned XII Judge,
Small Causes Court, Chennai.



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G.K.ILANTHIRAIYAN,J.

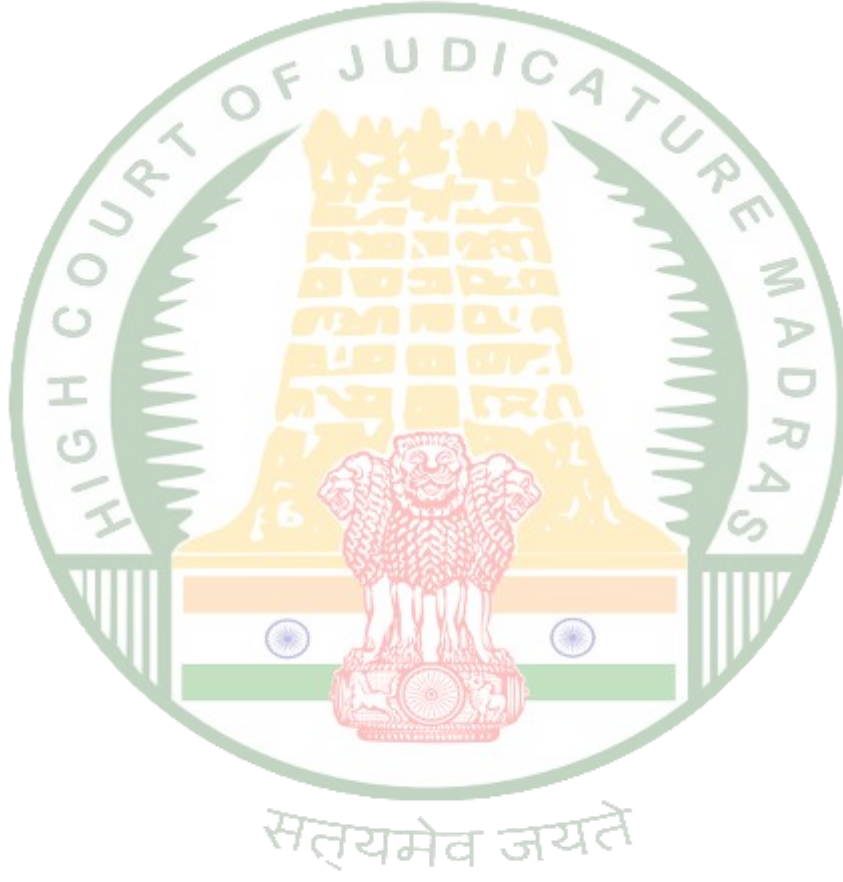
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