

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

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

C.R.P.(NPD)Nos.4291 of 2018 and 589 of 2019
and C.M.P.No.23515 of 2018

CRP(NPD)No.4291 of 2018 :-

P.A.Abdul Naushad

... Petitioner

Vs.

M.N.Hasan Naina

... Respondent

Prayer :- Civil Revision Petition is filed under Section 25(1) of the Tamil Nadu Building Lease and Rent Control Act, to set aside the judgment and decree dated 06.09.2018 passed in R.C.A.No.311 of 2017 by the learned VII Judge, Small Causes Court, Chennai and which confirmed the judgment and decree dated 17.02.2017 passed in R.C.O.P.No.2317 of 2013 by the learned X Judge, Small Causes Court, Chennai.

For Petitioner : Mr.A.D.Janarthanan

For Respondent : Mr.R.Sunilkumar
For Mr.M.Arun

CRP(NPD)No.589 of 2019 :-

M.N.Hasan Naina

... Petitioner

Vs.

P.A.Abdul Naushad

... Respondent

Prayer :- Civil Revision Petition is filed under Section 25(1) of the Tamil Nadu Building Lease and Rent Control Act, to set aside the judgment and decree dated 06.09.2018 passed in R.C.A.No.458 of 2017 by the learned VII Judge, Small Causes Court, Chennai, confirming the judgment and decree dated 17.02.2017 passed in R.C.O.P.No.2317 of 2013 by the learned X Judge, Small Causes Court, Chennai.

For Petitioner : Mr.R.Sunilkumar
For Mr.M.Arun

For Respondent : Mr.A.D.Janarthanan

COMMON ORDER

These Civil Revision Petitions are directed as against the fair and decretal order dated 06.09.2018 passed by the learned VII Judge, Small Causes Court, Chennai, (herein after referred to as 'Rent Control Appellate Authority') in R.C.A.Nos. 311 & 458 of 2017 respectively, confirming the judgment and decree dated 17.02.2017 passed by the learned X Judge, Small Causes Court, Chennai (herein after referred to as 'Rent

Controller') in R.C.O.P.No.2317 of 2013, thereby fixing fair rent for the petition premises.

2. The petitioner in CRP.No.4291 of 2018 is a tenant and the petitioner in CRP.No.589 of 2019 is a landlord. The landlord filed petition in R.C.O.P.No.2317 of 2013 for fixation of fair rent for the petition premises, which was rented out to the tenant. The learned Rent Controller partly allowed the petition and fixed fair rent for the petition premises at Rs.25,217/- per month. Challenging the fair rent fixed by the learned Rent Controller, the tenant filed appeal before the learned Rent Control Appellate Authority in R.C.A.No.311 of 2017. At the same time the landlord also filed appeal in R.C.A.No.458 of 2017 before the learned Rent Control Appellate Authority for enhancement of fair rent fixed by the learned Rent Controller. Both the petitions were dismissed, as against the same both the tenant and the landlord filed these present Civil Revision Petitions.

3. The case of the landlord is that he is an absolute owner of the

petition premises. At the time of purchasing the petition premises, the respondent was a tenant under the erstwhile owner. He is running jewelry shop in the name and style of Malabar Fashion Jewellery, in pursuant to the lease deed dated 03.02.2006. After purchase of the petition premises, the tenancy was attorned to the landlord by way of Letter of Attornment of Tenancy dated 19.12.2011. The petition premises is situated in the main commercial location in Chennai and it is type one building with all basic amenities and the age of the building is six years. The value of the land alone more than six crore per ground. Hence the landlord filed petition to fix the fair rent of Rs.46,500/- per month.

4. Resisting the same, the tenant filed counter and stated that as per the agreement, the tenant is paying a sum of Rs.11,500/- as monthly rent. The original landlord did not do any repair or maintenance work for the petition premises. There is no amenities or extra provisions for the petition premises. The present rent paid by the petitioner is fair rent and prayed for dismissal of the petition.

5. On the side of the landlord, he examined P.W.1 to P.W.3 and

marked Ex.P.1 to Ex.P.11. On the side of the tenant, he examined R.W.1 & R.W.2 and marked Ex.R.1 to Ex.R.4. On perusal of the material produced on record and considering both the oral and documentary evidence adduced by the respective parties and also the submissions made by the counsel on either side, the learned Rent Controller fixed the rent for the petition premises at Rs.25,217/- per month. Aggrieved by the same, both the landlord and tenant filed appeal before the learned Rent Control Appellate Authority in RCA.Nos.311 & 458 of 2017 respectively, for fixation and determination of correct rent as well as the enhancement of fair rent fixed by the learned Rent Control Appellate Authority. Both the appeals were dismissed and aggrieved by the same the present Civil Revision Petitions have been filed for determination of fair rent and also for enhancement of the fair rent fixed by the learned Rent Controller.

6. The learned counsel appearing for the tenant submitted that the tenant is already paying the rent of Rs.11,500/- per month. Whereas, his engineer valued the rent at Rs.8,000/- as per the marked value of the petition premises as such, he is paying the higher rent for the petition

premises. The petition premises was not provided with all amenities. In fact, the tenant spent more than Rs.20,00,000/- for interior decoration like fall ceiling, showcase etc., for the petition premises. There are other tenants also located in the same building premises. The basic amenities such as electricity and water connection and drainage facilities are used by all the occupants. Therefore, 20% for basic amenities is higher for the petition premises. In fact the petition premises is not provided with any staircase and the temporary staircase arranged by the tenant.

6.1. He further submitted that the total extent of the petition premises is calculated as 491 sq.ft. including toilets. Both the Court below failed to deduct those area while calculating the construction cost and land value to determine the fair rent. He further submitted that the market value of the petition premises per ground is only Rs.2,40,00,000/-, even as per the document produced by the landlord. Whereas the engineer on behalf of the landlord calculated the land value at Rs.6 crore per ground. Unfortunately the learned Rent Controller valued the petition premises as Rs. 4 crore per ground. As per the tenant's engineer report, the value of the property fixed

only at Rs.1.32 crore per ground. Therefore, he sought for fixation of fair rent to the petition premises.

7. Per contra, the learned counsel appearing for the landlord submitted that the petition premises is located in the commercial area that too, it is a corner plot. The learned Rent Controller failed to consider the fact, while fixing the fair rent, the locality advantage and actual value of the petition premises. The petition premises situated at heart of the city at Triplicane high road. He further submitted that when the landlord engineer filed report assessing the marked value of the property at Rs.6 crores, without any rebuttal evidence, the learned Rent Controller fixed at Rs.4 crores as the value of the petition premises. The petition premises is type one with 123 sq.ft of common area for each occupants and the tenant is in exclusively possession and occupation of 123 sq.ft., common area. Therefore he sought for enhancement of fair rent fixed by the learned Rent Controller.

8. Heard Mr.A.D.Janarthanan, learned counsel appearing for the

tenant and Mr.R.Sunilkumar, learned counsel appearing for the landlord.

9. The petition premises is located at No.238/2/4, Triplicane High Road, Triplicane, Chennai-5. The tenant is running jewelry shop in the name and style of Malabar Fashion Jewellery in the petition premises. Originally the tenant was inducted as tenant by the erstwhile landlord by the lease agreement dated 03.02.2006. After the purchase of the petition premises, the tenancy was attorned in favour of the landlord and the tenant continued to pay rent to the landlord. After enhancement of the rent, the tenant is paying a sum of Rs.11,500/- as monthly rent. Therefore, the landlord filed petition for fixation of fair rent for the petition premises. The petition premises is type one class A building and its age is 8 years old.

10. As far as the amenities are concerned, the petition premises is provided with electricity and water connection and toilet facilities. Therefore, the learned rent controller fixed the amenities at 20% for the petition premises. Though the landlord engineer assessed the marked value of the petition premises at Rs.6 crores, the tenant engineer filed his report

fixing the value at Rs.1,32,00,000/- However, the learned Rent Controller fixed the value of the petition premises at Rs. 4 crores, considering the location advantage of the area, in which the petition premises is situated. This Court feels that the market value of the petition premises fixed by the learned Rent Controller is quiet reasonable.

11. As far as the area of the petition premises is concerned, the plinth area of the petition premises is 491 sq.ft., and the petition premises is consists of four floors. Therefore, the learned Rent Controller fixed at 122.75 sq.ft., to calculate the fair rent. The plinth area of the petition premises is 491 sq.ft., and accordingly, the learned Rent Controller rightly fixed the fair rent at Rs.25,217/- as monthly rent payable by the tenant. The learned Rent Control Appellate Authority also rightly confirmed the fair rent fixed by the learned Rent Controller and this Court finds no infirmity or illegality in the order passed by the Courts below.

12. Accordingly, both the Civil Revision petitions are dismissed.
Consequently, connected miscellaneous petition is closed. There shall be no
order as to costs.

25.06.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

1. The VII Judge,
Small Causes Court,
Chennai.
2. X Judge,
Small Causes Court,
Chennai.
3. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

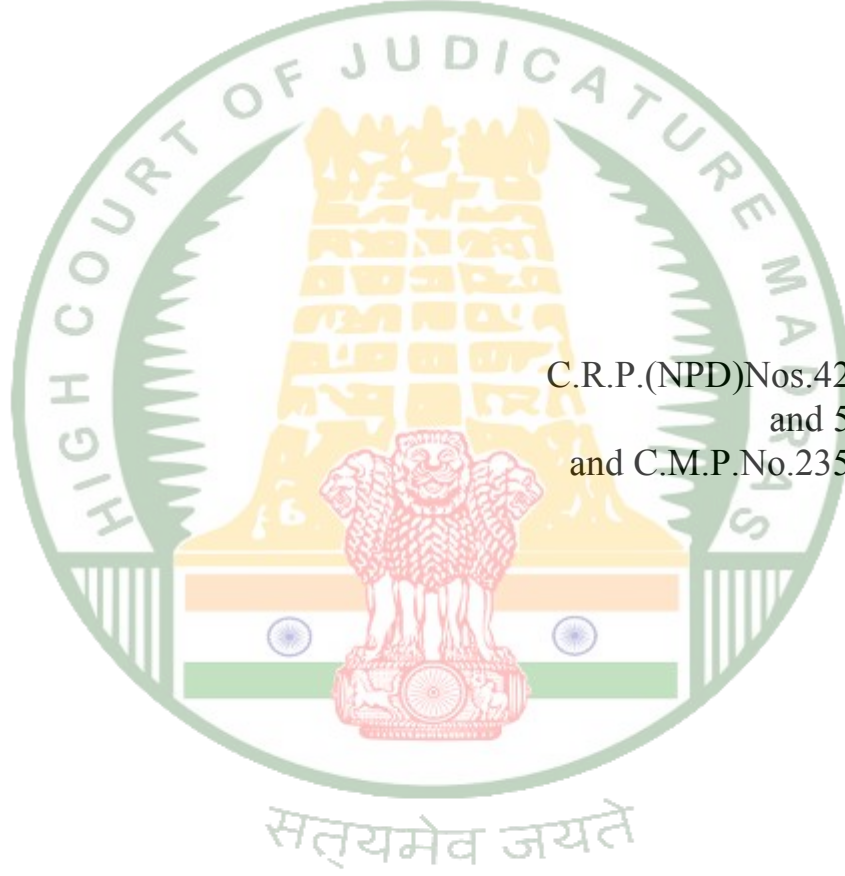


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and 589 of 2019*

G.K.ILANTHIRAIYAN, J.

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