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C.R.P.No.3887 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

CORAM

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

C.R.P.No.3887 of 2012

Manickarathinam

... Petitioner

Vs.

1. Amanulla Baig (died)
2. Ansar Baig
3. Thabasam Nigar
Aktharunnisa
(R2 to R4 brought on record as LR
of the deceased sole respondent
viz., Amanulla Baig vide Court order
dated 18.08.2020 made in C.M.P.
Nos.11060, 11065 & 11062 of 2019
in C.R.P.No.3887 of 2012)
(R4 deleted vide order
dated 17.06.2022 made in
C.M.P.No.7162 of 2012
in C.R.P.No.3887 of 2012)
4. Shahitha Pulghis
5. Farsana Akfarin
(R4 & R5 brought on record as LR
of the deceased respondent
viz., Amanulla Baig vide Court order
dated 17.06.2022 made in C.M.P.
Nos.7154, 7156 & 7159 of 2022
in C.R.P.No.3887 of 2012)

... Respondents



C.R.P.No.3887 of 2012

Prayer :- Civil Revision Petition is filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control Act, 1960), to call for the records in R.C.A.No.3 of 2010 on the file of the appellate authority at Principal Subordinate Judge, Cuddalore, and the order passed there in dated 16.02.2012, thereby allowing the R.C.A.No.3 of 2010 in part and modifying the order passed in R.C.O.P.No.13 of 2003 on the file of the learned Principal District Munsif, Cuddalore and set aside both fair and decreetal orders of the Rent Controller dated 23.02.2010 passed in R.C.O.P.No.13 of 2003 and fair and decreetal orders of the appellate authority dated 16.02.2003 passed in R.C.A.No.3 of 2010 and allow the above CRP.

For Petitioner : Mr.S.Suresh

For Respondents

R1 : Died

For R2, R4 & R5 : Mr.T.Sezhian

For Mrs.R.Meenal

R3 : Notice served

ORDER

This Civil Revision Petition has been filed as against the judgment and decree order dated 16.02.2012 passed by the learned Principal Subordinate Judge, Cuddalore, (herein after referred to as “the learned Rent Control Appellate Authority”) in R.C.A.No.3 of 2010, modifying the order dated 23.02.2010 passed by the learned Principal District Munsif,



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Cuddalore, (herein after referred to as “the learned Rent Controller”) in R.C.O.P.No.13 of 2003, thereby fixing the fair rent for the petition premises.

2. The petitioner is the tenant in the premise owned by the respondent. The petitioner was inducted as tenant for non-residential purpose for the monthly rent of Rs.100/- and later it was enhanced to Rs.200/-. The respondent filed petition for eviction in R.C.O.P.No.2 of 2000 on the ground of personal occupation and it was allowed and eviction was also ordered. Aggrieved by the same, the petitioner filed appeal in R.C.A.No.1 of 2002. While it was pending, the respondent also filed petition in R.C.O.P.No.13 of 2003 for fixation of fair rent.

3. In that petition, the learned Rent Controller appointed Advocate Commissioner in order to estimate the value of the building with the help of qualified engineer from the Public Works Department. With the help of Assistant Engineer, P.W.D., the Advocate Commissioner inspected the premises and filed report with calculation memo. The Advocate Commissioner's report and plan were marked as Ex.C.1 and Ex.C.2. The fair



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rent calculation sheet draft by the Assistant Engineer was marked as Ex.C.3.

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4. Further, the learned Rent Controller reduced the rent as fixed by the Assistant Engineer, P.W.D., to the tune of Rs.800/- and fixed the fair rent for the petition premises for the year 2000-01 at Rs.2,065.54, for the year 2001-02 at Rs.2,193.64, for the year 2002-03 at Rs.1,985.27, for the year 2003-04 at Rs.2,011.59, for the year 2004-05 at Rs.2,020.52, for the year 2005-06 at Rs.2,026.53. Aggrieved by the same, the petitioner preferred an appeal and the learned Rent Control Appellate Authority modified the order and fixed the fair rent at Rs.2,491/- from the date of petition ie., 21.08.2003, as against which the present Civil Revision Petition.

5. Heard Mr.S.Suresh, learned counsel appearing for the petitioner and Mr.T.Sezhian, learned counsel appearing for the respondents 2, 4 & 5.

6. It is represented that the petitioner on 01.06.2005 itself, vacated the premises and handed over the vacant possession of the petition mentioned property to the respondent. On a perusal of calculation of fair



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rent which was marked as Ex.C.3, it is seen that after following all the procedure, the Assistant Engineer, P.W.D., fixed the fair rent. However, the learned Rent Controller fixed the rent by reducing a sum of Rs.800/- as mentioned above. Though this Court finds no infirmity or illegality in the order passed by the Courts below, considering the fact that already the petitioner vacated the premises, this Court is inclined to fix the fair rent at Rs.1,500/- from the year 2002 till the date of handed over the possession.

7. Accordingly, the Civil Revision Petition is partly allowed.

There shall be no order as to costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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G.K.ILANTHIRAIYAN, J.

rts

To

1. The Principal Subordinate Judge,
Cuddalore.
2. The Principal District Munsif,
Cuddalore.

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