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C.R.P.No.2591 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

CORAM

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

C.R.P.No.2591 of 2013
and M.P.Nos.1 & 2 of 2013

Selvam

... Petitioner

Vs.

1. D.Ganesan

(Deleted vide Court order
dated 05.12.2022 made in
CMP.No.15085 of 2021 in
CRP.No.2591 of 2013)

2. G.Malathi

... Respondent

Prayer :- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building (Lease & Rent Control) Act, to set aside the judgment and decree dated 27.02.2013 made in R.C.A.No.787 of 2005 passed by the learned VIII Judge, Small Causes Court, Chennai, modifying the fair and decreetal order by increasing the fair rent made in R.C.O.P.No.2165 of 2004, passed by the learned XII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.Ashok Menon

For Respondent : Mr.K.M.Kalicharan



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ORDER

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This Civil Revision Petition is directed as against fair and decretal order dated 27.02.2013 made in R.C.A.No.787 of 2005 on the file of the learned VIII Judge, Small Causes Court, Chennai, (herein after referred to as “the Rent Control Appellate Authority”) thereby increasing the fair rent made in the order dated 21.03.2005 passed in R.C.O.P.No.2165 of 2004 on the file of the learned XII Judge, Small Causes Court, Chennai, (herein after referred to as “the Rent Controller”).

2. The petitioner is the tenant under the respondent. The respondent filed petition for fixation of fair rent under Section 4 of the Tamil Nadu Building (Lease and Rent Control) Act, 1960, in respect of four shops and two godowns in property bearing Door No.44, Sannadhi Street, Villivakam, Chennai, for the monthly rent of Rs.1,300/-, since the petitioner is paying very meager rent. The petition premises situated in a prime commercial locality in Villivakkam and it is having proximity to the bus stand, nationalized bank, education institutions and shops. The value of the land per ground at Rs.15,00,000/-. Hence the respondent filed petition for fixation of rent at Rs.7,560/- per month.



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3. On the side of the petitioner, he filed counter stating that the petition premises was purchased in the year 1999 by the respondent and accordingly, the property value at Rs.6,50,000/- per ground and it do not fix as Rs.15,00,000/- as stated by the respondent. The petitioner also disputed the occupied area only 600 sq.ft., instead of 900 sq.ft. The age of the building also 100 years and as such it would not fix any fair rent as claimed by the respondent.

4. On the side of the respondent, he examined P.W.1 & P.W.2 and also marked Ex.P.1 and Ex.P.7. On the side petitioner, he examined D.W.1 & D.W.2 and marked Ex.R.1 to Ex.R.4. In both sides, the respective engineers inspected the premises and filed their reports. The learned Rent controller had taken the age of the building as 80 years and valued the land as per the document marked in Ex.P.5, which was executed on 21.11.2003 and fixed the value of the land at Rs.8,52,687/- per ground. As per the engineers report submitted on behalf of the respondent, the construction cost of the premises was fixed at Rs.1,45,950 for the ground floor and at Rs.74,798/- for the first floor. The portion which is occupied by the



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petitioner was taken as Rs.715/- per sq.ft., and fixed total value of the land at Rs.2,54,025/- and fixed monthly rent of Rs.3,576/-. Aggrieved by the same, both the landlord as well as the tenant preferred appeals. The learned Rent Control Appellate Authority enhanced the rent at Rs.4,843/-. Aggrieved by the same, the tenant preferred the present Civil Revision Petition.

5. The learned counsel appearing for the petitioner submitted that the learned Rent Controller had taken the age of the building as 80 years even according to the respondent the age of the building is 100 years. The extent of the occupied portion is also wrongly calculated as 715 sq.ft., viz., 417 sq.ft., RCC terrace portion and 298 sq.ft. shed portion. Whereas the engineer report submitted on behalf of the petitioner is less than the extend as reported by the respondent engineer.

5.1. He further submitted that the learned Rent Controller also had taken Ex.P.5 and fixed the value of the land at Rs.8,52,687/-. Further the learned Rent Control Appellate Authority fix the land value at



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Rs.12,77,880/- after giving 15% appreciation for one year. However, the property mentioned in the Ex.P.5 is situated in some other location and as such the petition mentioned property would not fix that much value as calculated by learned Rent Controller Appellate Authority. Therefore, it is liable to be reduced. Hence, he prayed to allow the Civil Revision Petition.

6. Per contra, the learned counsel appearing for the landlord/respondent submitted that the petitioner occupied four shops and two godowns which was more than 758 sq.ft. The petitioner was engaged as tenant immediately after purchase of the land. He paid rent at Rs.1,300/-. Therefore, the Courts below rightly enhanced the rent at Rs.4,843/-. Now, the property value more than two crores per ground as such the rent fixed by the Courts below is very meager. Hence, he prayed to dismiss the present Civil Revision Petition.

7. Heard Mr.Ashok Menon, learned counsel appearing for the petitioner and Mr.K.M.Kalicharan, learned counsel appearing for the respondent.



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8. According to the respondent, the petition premises is now worth more than two crores rupees. Admittedly, the petition premises is used for commercial purpose. Though the age of the building was calculated as 80 years by the learned Rent Controller, it was corrected by the learned Rent Control Appellate Authority as 100 years. Further the location in which the petition premises is situated and the present value of the building is very high. Though the petitioner was directed to pay enhanced rent even now, the petitioner ought to have pay a sum of Rs.4,843/- only. The rent is very meager now a day for four shops and two godowns. Therefore, this Court finds no infirmity or illegality in the order passed by the Courts below.

9. Accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

08.12.2022
(2/2)

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



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To
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1. The VIII Judge,
Small Causes Court,
Chennai,
2. The XII Judge,
Small Causes Court,
Chennai.
3. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts

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