

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.S.A.Nos.147 to 149 of 2022
and C.M.P. Nos.8993, 8994 and 8995 of 2022

1.M.Iqbal Ahmed (Senior Citizen)
2.M.Mohamed Farooq (Senior Citizen)
3.Shanaz Begum (Senior Citizen)
4.Khamar Sultana (Senior Citizen)
5.M.Mohamed Aseel
6.M.Khatija Asmee .. Appellants

Vs.

1.The Administrator General and
Official Trustee of Tamil Nadu,
Office of the Administrator General and
Official Trustee of Tamil Nadu,
High Court Campus,
Chennai - 600 104.
2.Abdullah Basha
3.Abdul Basha
4.Muzuru Alam Proprietor
5.Mohamed Jameel
6.Sujatha
7.Proprietor
RSRK & Company
8.Proprietor
Deen Stores,
Newspaper Stall. .. Respondents

Prayer in all cases: Original Side Appeals filed under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent against the Judgment dated 01.04.2022 passed in A.Nos.913, 914 and 912 respectively of 2022 in C.S. No.274 of 1899.

For Appellants : Mr.P.V.Balasubramaniam

For R1 : Mr.R.Jothimanian

COMMON JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

These appeals have been directed against the interim order dated 01.04.2022 passed in A.Nos.913, 914 and 912 respectively of 2022 in C.S. No.274 of 1899, wherein the learned Single Judge directed the respondents therein to pay the arrears of rent amounting to more than Rs.32 lakhs within a period of three weeks.

2.Learned counsel appearing for the appellants submitted that when the first respondent has issued a letter dated 04.11.2019 fixing a sum of Rs.2,51,000/- as a monthly rent, vital and crucial aspects that the superstructure was purchased by the appellants forefather have been overlooked. Therefore, without any reference to facts and circumstances prevalent or prevailing monthly rent in the said area, calling upon the appellants to pay a sum of Rs.2,51,000/- as a monthly rent is highly arbitrary. When the appellants were instructed to appear for the enquiry on 04.11.2019, appellants 1 to 3, who were indisposed on account of medical reasons, had instructed their counsel to represent him in the meeting fixed on the aforementioned date. Accordingly, when their counsel requested the staff attached with the office of the first respondent, namely, Malathi, she informed that the first respondent will not meet the counsel in the absence of the appellants. Therefore, in view of the above mentioned instruction, the appellants' counsel was constrained to issue a letter to the first respondent requesting him to permit him to represent appellants in the instant matter on humanitarian ground by dispensing with the technicalities. When the appellants were in the fond hope that the meeting fixed on 04.11.2019 pursuant to their letter submitted, would be re-scheduled to some other day, the first respondent had issued a letter dated 04.11.2019 unilaterally increasing the lease hold rent for the underlying lands to an

astronomical sum of Rs.2,51,000/-. Therefore, when the appellants were not provided with a reasonable opportunity before enhancing the monthly rent and they were paying a sum of Rs.11,000/- till July 2019, increasing the rent to Rs.2,51,000/- within 4 months and that too without even hearing the appellants is unjustified. Since the learned Single Judge has failed to consider the same, the impugned orders are liable to be set aside.

3. In reply, Mr. R. Jothimanian, learned counsel appearing for the first respondent submitted that although the appellants are in occupation of a huge land, having an extent of 2575 sq.ft. in a prime location in Anna Salai nearer to Express Avenue, a sum of Rs.11,000/- was fixed in July 2019. Since the monthly rent is not reasonably fixed for the properties administered by the first respondent, a decision was taken to re-assess the value of the land and also the superstructure for not only the appellants' property, but also several other properties situated in and around the city.

4. Heard both sides.

5. A perusal of the records would show that since the appellants are the tenants, occupying 2575 sq.ft. of land in prime location in Anna Salai, nearer to Express Avenue, the total land cost for the leased area (A) was fixed at Rs.2,41,53,500/- (2575×9380) while building cost (including all aspects) was Rs.200/- sq.ft., total building area was 4736 sq.ft. Therefore, total building cost (B) comes to Rs.9,47,200/- ($4736 \text{ sq.ft.} \times \text{Rs.}200/-$) and annual rent for non-residential and monthly rent were fixed at Rs.30,12,084/- ($\text{Rs.}2,51,00,700 \times 12/100$) and $\text{Rs.}30,12,084/12 = \text{Rs.}2,51,007/-$, which has been rounded to Rs.2,51,000/-. When Rs.2,51,000/- has been fixed by the first respondent, after informing the appellants to take part in the enquiry held on 04.11.2019, it is for the appellants to come and explain on what basis the monthly rent cannot be fixed. After accepting the invitation given by the first respondent, the appellants have not come forward to take part in the enquiry. Therefore, the first respondent has rightly fixed the monthly rent. For the reasons that the appellants have refused to take part in the enquiry, the learned Single Judge has also rightly directed the appellants to pay the arrears of rent of Rs.90,32,400/-. Since they are occupying the huge extent of land in prime location in Chennai without paying any rent, we do not find any merit or justification in the appeals. Therefore, appellants are given four weeks time to pay the arrears of rent and the first respondent is at liberty to proceed in the manner known to law.

6.With the above direction and observation, these appeals stand dismissed. Consequently, connected C.M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vga

To

1. The Administrator General and
Official Trustee of Tamil Nadu,
Office of the Administrator General and
Official Trustee of Tamil Nadu,
High Court Campus,
Chennai - 600 104.
2. The Sub Assistant Registrar,
Original Side, High Court, Madras.

+2ccs to Mr.BPS Legal, Advocate SR.No.40230

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MG(CO)
GMY(22/07/2022)