



C.R.P. Nos.1904 & 1906 of 2020 & CMP Nos.11665 of 2020 & 8468 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.R.P. Nos.1904 & 1906 of 2020
&
CMP Nos.11665 of 2020 & 8468 of 2021

Rajam ... Petitioner in both petitions

Vs.

R. Selvaraj ... Respondent in both petitions

Common Prayer: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal orders dated 26.06.2020 made in RCA No. 54 of 2015 and RCA No.53 of 2015 on the file of Appellate Authority/Principal Subordinate Judge, Coimbatore, reversing the fair and decreetal orders dated 22.12.2014 made in RCOP No.248 of 2010 on the file of Rent Controller/Additional District Munsif Court, Coimbatore.

In both the Petitions

For Petitioner : Mr. P. Saravana Sowmiyan

For Respondent : Mr. B. Ram Kumar



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COMMON ORDERS

The revision petitioner is the tenant and hereinafter referred as tenant while the respondent being the landlord shall be referred to as landlord. The landlord had originally rented out his premises measuring 317.5 sq. ft in the first floor in a two storeyed commercial building built on the Oppanakara Street, Coimbatore, way back in 1974 for a monthly rent of Rs.5,500/-. According to the landlord, keeping in mind the location of the property and the commercial purpose for which it was put to use the rent of Rs.5,500/- was abysmally low which prompted him to file RCOP No.248/2010 under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, for the fixation of fair rent before the Rent Controller/I Additional District Munsif, Coimbatore.

2. The learned Rent Controller had gone into the various submissions and documentary evidence presented by both sides and fixed the fair rent for the premises as Rs.9,400/- per month vide his orders dated 22.12.2014. Both the land lord and the tenant appealed against the said orders in RCA No.54/2015 and RCA No.53/2015 respectively before the



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Rent Control Appellate Authority/Principal Subordinate Judge,
Coimbatore.

3. RCA No.53/2015 & RCA No.54/2015 were clubbed together and a common orders were passed by the learned Rent Control Appellate Authority.

4. In RCA No.53/2015, the tenant had contended that the fixation of rent at Rs.9,400/- per month by the learned Rent Controller was arbitrary and against the settled principles of law. According to her, she was a tenant with the landlord for more than 4 decades and the original rent paid by her was only Rs.3,500/- per month and that too after two earlier RCOPs, in RCOP No. 268/1999 and RCOP No.309/2001, seeking eviction and fixation of fair rent were settled out of court through compromise. According to the tenant who filed RCA No.53/2015, the rent controller's calculations ended up only in arriving at the fair rent as Rs.6,764/- per month and not Rs.9,400/-.



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5. In RCA No.54/2015, the landlord disputed the rent of Rs.9,400/- per month fixed by the Rent Controller contending that the Rent controller did not assess the value of the land and building in which the premises was located and also ignoring the fact that guideline value of the land is not to be relied upon while fixing the fair rent under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. It was also further pointed out by him that the location of the commercial property on Oppanakara street which is a commercial hub of Coimbatore City in itself weighs in his favour for higher rent to be paid for the rented premises.

6. The Rent Control Appellate Authority dismissed the RCA No.53/2015 while allowing RCA No.54/2015 vide his orders dated 26.06.2020. He also set aside the orders of the Rent Controller fixing the fair rent as Rs.9,400/- per month and refixed the fair rent as Rs.33,100/- per month from 25.10.2010. This order of the Rent Control Appellate



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authority is the subject matter in the present Civil Revision Petitions in CRP No. 1904/2020 and CRP No.1906/2020, both filed by the tenant against the fair and decretal orders dated 26.06.2020 passed in RCA No.53/2015 & RCA No.54/2015.

7. Heard Mr. P. Saravana Sowmiyan, learned counsel appearing for the revision petitioner and Mr. B. Ram Kumar, learned counsel appearing for the respondent.

8. Learned counsel for the revision petitioner/tenant argued that the order of the Rent Control Appellate authority was flawed in many aspects. According to him the premises which was rented out by the landlord was more than 4 decades old and the size of the portion taken on rent by the tenant is approximately 317.5 sq.ft. and that too on the 1st floor and fixing of a huge rent at Rs.33,100/- per month had no basis whatsoever. It was further contended that the value of the building shown as Rs.1.50 crores out of the total value of Rs.15.00 crores for a built up



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area of 27,500 sq. ft. was not very convincing and in fact the value of the premises rented out ought to have been arrived at based on similar sale transaction for similar type of property in and around the same area instead of relying on valuation report or any other report by an expert. He would also contend that sale of larger extent of property was relied upon to fix the value of the land.

9. Per contra learned counsel appearing for the respondent/landlord argued that the order of the Rent Control Appellate Authority was in accordance with the settled law in the matter. His contention was that as per Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, only the market value of a building has to be considered while fixing the fair rent and the Rent Controller had taken the guideline value of Rs.3,200/- per sq.ft and arrived at the fair rent of Rs.6,764/- and fixed it as Rs.9,400/- by enhancing it by Rs.1,000/- for every 3 years. According to the learned counsel, the approach of the Rent Controller was erroneous and was rightly set aside by the Rent Control



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Appellate Authority. He would further contend that the order of the Rent Control Appellate Authority does not suffer from any infirmity.

10. The Rent Controller arrived at the fair rent based on the deposition of one Baskaran who was examined as P.W.3. P.W.3 was working as Superintendent, Sub Registrar Office, Joint-I, Coimbatore, According to the ratio decidendi of the Supreme Court the fixation of market value on the basis of guideline or Valuation Register summoned from Sub Registrar Office or valuation by any engineer is illegal and unsustainable. According to the Apex Court in "*Sakthi & Co., through its partner, Veeranan Vs Shree Desigachary*" reported in "2006 (2) CTC 433" the best method to determine the market value would be based on the evidence of bona fide sales between willing prudent vendor and willing prudent vendee in the adjacent area possessing similar advantages. Though the rent controller relied upon the sale deed Ex.X1 of an adjacent property executed in 2011, he had taken the guideline value per sq. ft as the market value (at Rs.3,200/- per sq. ft) and proceeded to arrive at the



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fair rent. The Rent Controller had also relied on the deposition of P.W.3 that the total built up area of the building as mentioned as Ex.X1 was 27,500 sq.ft., while the Rent Control Appellate Authority categorically concluded that the land area was 6452 sq. ft with building constructed underground and ground to three floors. The value of the building shown in Ex.X1 was Rs.1,50,01,799/- and thus per sq. ft. of land worked out to Rs.20,923/- per sq. ft. In this context, the observation of Rent Control Appellate Authority is extracted hereunder:

"(d) While considering whether such a valuation is proper or not, it is seen that Rs.3,200/- sq.ft is only the guideline value and it is not the market value of the property. On a perusal of Ex.X1 it is seen that 6,452 sq. ft of land with building constructed under ground and in the ground, first, 2nd and 3rd floors has been sold for a total value of Rs.15.00 crores. Out of this Rs.15.00 crores, the value of the building is shown as Rs.1,50,01,799/-. Deducting this



amount from the total consideration, it is seen that the value of 1 sq.ft of land is about Rs.20,923.46 sq. ft. But the learned rent controller has not taken this into consideration and has determined the value of the land at Rs.3,200/- per sq. ft taking the guideline value as the value of the land. This approach of the learned rent controller is not proper, as Section 4 of the Act takes only the market value of the site into consideration and not the guideline value. Hence Rs.3,200/- per sq. ft fixed by the learned rent controller cannot be taken as the value of the land. The value fixed at Rs.7,000/- by the qualified surveyor cannot also be taken into consideration as the surveyor has admitted that he has not perused any sale deed or other document before arriving at this value. Hence it would be for this court to fix the value of the land with the available evidence."

This calculation of the Rent Control Appellate Authority is purely based



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on the documentary evidence and cannot be negated for the simple reason that the deposition of P.W.3 mentions the total built up area as 27,500 sq.ft. The Rent Control Authority in fact has tried to give weightage for the other factors like the age of the building and the amenities provided and in fact accepted the costs of construction of the building and costs of amenities at Rs.1,33,390/- as fixed by the Rent Controller and also as accepted by the tenant. In such circumstances the order of the Rent Control Appellate Authority appears to be reasonable and the fair rent as fixed by him needs no intervention and is therefore upheld by this court.

11. In the result,

- i. the Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are dismissed.
- ii. The fair and decreetal orders dated 26.06.2020 made in RCA No. 54 of 2015 and RCA No.53 of 2015 on the file of Appellate Authority/Principal Subordinate Judge, Coimbatore, is upheld.
- iii. The fair and decreetal orders dated 22.12.2014 made in RCOP



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No.248 of 2010 on the file of Rent Controller/Additional District
Munsif Court,Coimbatore, is set aside.

27.10.2022

Index : Yes/No

Internet : Yes/No

Speaking/non speaking
bga

To

1. The Appellate Authority/Principal Subordinate Judge, Coimbatore,
2. The Rent Controller/Additional District Munsif Court,Coimbatore,
3. The Section Officer, VR Section, High Court, Madras.



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R.HEMALATHA, J.,
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