



C.R.P.(NPD) No.2064 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(NPD) No.2064 of 2021
and C.M.P.No.15710 of 2021

K.Elumalai

... Petitioner / Appellant / Respondent

Vs.

S.Nirmala

Court Receiver

.. Respondent / Respondent / Petitioner

Prayer : Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 praying to set aside the order dated 16.02.2021 in R.C.A.No.353 of 2012 on the file of IX Judge, Small Causes Court, Chennai, confirming the order dated 22.12.2011 in R.C.O.P.No.1233 of 2009 on the file of X Judge, Small Causes Court, Chennai.

For Petitioner : Mr.V.Subramani

For Respondent : Mr.P.Rajendra Kumar



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ORDER

The landlord has moved the Rent Controller in R.C.O.P.No.1233/2009 for fixing fair rent for a non-residential building, of which, the revision petitioner is a tenant. The Rent Controller fixed the fair rent vide his order dated 22.12.2011, at Rs.1,526/- per month based on 2009 value. Challenging the same, the tenant/revision petitioner preferred RCA.No.353 of 2012, and that came to be dismissed vide order of the appellate Court dated 16.02.2021. This is under challenge in the present revision.

2. The core contention of the revision petitioner is that:

- R.C.O.P.No.1233/2009 was filed by the receiver of the property appointed by this Court in an application in A.No.647 of 2008 in C.S.No.849 of 2000, but the authority of the eviction petitioner / receiver of the property is limited only to collection of rent from the tenants, and no more. Hence the eviction petitioner exceeded the limit of her authority when she instituted an application for fixing of rent.



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- The appellate authority had failed to consider that the Rent Controller has passed an order, without the eviction petitioner / receiver of the property providing the market value of the property, cost of construction, and the materials used for the construction of the property.

He relied on the ratio in ***Balbir Anand & Ors. Vs. Ram Jawaya Kapoor & Ors.*** [AIR 1960 Raj 192 : RLW 1960 Raj 334]

3. Per contra, the counsel for the respondent / receiver of the property would submit that:

- Clause-6 of Paragraph No.2 of the order dated 12.02.2008 in A.No.647 of 2008 in C.S.No.849 of 2000, categorically stipulates that the receiver has the power to file and defend suits. Indeed, the receiver is a party-receiver in a partition suit which she has instituted, in which a preliminary decree too has been passed, and she has her share in the property. Even dehors her receivership, she is entitled to a fractional share in the property.
- So far as the other contentions of the tenant / revision petitioner are concerned, they are particularly passed on factual details and this



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Court may not examine the facts meticulously in its revisional jurisdiction.

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He also placed reliance on the judgment of the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation Ltd., Vs. Dilbahar Singh*** [(2014) 9 SCC 78].

4. In the course of the argument, this Court is informed that the landlord has since filed RCOP.No.524/2018 for eviction on the ground of default in payment of differential rent, and after contest, this RCOP was allowed, and the tenant has preferred an appeal in RCA.No.766/2018, and the same is pending before the appellate authority. In this, the tenant is said to have paid 50% of the differential rent payable.

5.1 The property is in Chennai. This Court is dealing with the matter where the fair rent was fixed at 2009 prices and its fairness is now being challenged in this revision, after 13 years, when the market price is multiplied by manifolds. It is in this background when this Court analyses the case of the revision petitioner, it has to be stated on facts that this Court does not find any material to hold that the Tribunals below, more



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particularly, the Rent Control Appellate Authority's order is improper, irregular, or illegal as to warrant interference by this Court.

5.2 Turning to the second leg of the petitioner's contention that the respondent / receiver of the property has acted beyond her authority is concerned, this Court finds from the copy of the order passed by this Court in A.No.647 of 2008 in C.S.No.849 of 2000, that it has granted authority to the receiver to institute and defend suits.

6. In fine, this Court does not find any merit in the revision filed by the tenant, and the revision is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.04.2022

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

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To:

1.The Judge
IX Small Causes Court
Chennai.

2.The Judge
X Small Causes Court
Chennai.



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N.SESHASAYEE.J.,

ds

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