



C.R.P.No.116 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.09.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.116 of 2022
and C.M.P.Nos.638 of 2022, 21661 of 2021

1.K.Karunanidhi (Deceased)

2.K.Vijaya

3.Anitha

4.K.Prabu

5.K.Soundararajan

...Petitioners

Vs

P.S.Shanthi

... Respondent

PRAYER: Civil Revision Petition filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, pleased to call for the records and set aside the order dated 05.10.2021 passed by the Learned Rent Control Appellate Authority the VII Small Causes Judge at Chennai in R.C.A.No.463 of 2014 confirming the order dated 12.02.2014 passed in R.C.O.P.No.169 of



C.R.P.No.116 of 2022

2010 on the file of Learned XV Small Causes Judge at Chennai and thereby remand the Rent Control Appeal in R.C.A.No.463 of 2014 to the appellate authority to consider on facts and merits.

For Petitioners : Mr.R.Abdul Mubeen

For Respondent : M/s.G.Sugadev Rajaguru

ORDER

The Civil Revision Petition is arising out of fair rent proceedings under Tamil Nadu Lease and Rent Control Act. The tenants are the revision petitioners. The respondent / landlady filed a fair rent petition in R.C.O.P.No.169 of 2010 before the Rent Controller (XV Judge Court of Small Causes, Chennai). According to the respondent / landlady that the agreed rent was Rs.775/- for the demised premises which was let out for residential purpose. The extent of the demised premises is 546 sq.ft. The respondent / landlady claimed that the demised premises is situated in a most busy locality in the City of Chennai which is parallel to Thiruvotriyur High Road, in the vicinity of various shops and establishment. The respondent claimed that the agreed rent was very meagre and hence sought for fixation of a rent.



C.R.P.No.116 of 2022

WEB COPY

2. The revision petitioner / tenant filed a detailed counter and resisted the fair rent petition on the ground that the age of the building was more than 75 years, he claimed that he was solely maintaining the building without any help from the respondent / landlady. He claimed that the value of the site in that locality was Rs.14,00,000/- per ground but not Rs.90,00,000/- per ground as claimed by the respondent / landlady. It was also stated by the petitioner in his counter that the premises is situated very near to the Slum area and also within 100 feet from Government Arrack Shop in Pilliar Koil Street and hence the agreed rent was reasonable one. The Rent Controller after consideration of oral and documentary evidences available on record fixed the fair rent at Rs.3883/- per month and aggrieved by the same the revision petitioners / tenant filed an appeal in R.C.A.No.463 of 2014 on the file of VII Court of Small Causes, Chennai (Rent Controller Appellate Authority). The appellate authority concurred with the findings of the Rent Controller and dismissed the appeal. Aggrieved by the same the tenants have come up with this petition.

3. The learned counsel for the petitioners submitted that the Rent Controller erred in taking the land value at Rs.20,00,000/- per ground as against Rs.14,47,200/- per ground as per data sale deed Ex.R6 produced by the



C.R.P.No.116 of 2022

revision petitioner. He further submitted that the Rent Controller failed to take into consideration the Engineer's Report of the petitioner marked as Ex.R4, wherein the built up area was mentioned as 404.12 sq.ft. only.

4. Per contra the learned counsel for the respondent / landlady submitted that the respondent / landlady had produced a data sale deed in respect of a land situated very near to the demised premises under Ex.P4 and as per the said document the value of land would be Rs.90,00,000/- per ground but whereas the Rent Controller fixed the land value only at Rs.20,00,000/- per ground and hence the same is not excessive. The learned counsel further submitted that at the relevant point of time the guideline value fixed in the Sub Registrar Office was Rs.900/- per sq.ft., which is equivalent to Rs.21,60,000/- per ground and hence the value fixed by the Rent Controller was very much on lower side. The learned counsel further submitted that the demised building is situated in the busy locality in Tondiarpet and hence the rent fixed by Rent Controller cannot be said to be excessive.

5. I heard the rival submissions of both the counsel and perused the documents filed by the parties including the Engineer's Report.



C.R.P.No.116 of 2022

WEB COPY

6. The main controversy between the parties revolves around the land value fixed by the respective Engineer. The Rent Controller fixed the extent of built up portion of the demised premises only at 353.60 sq.ft. as seen from the calculation made by him. After fixing the Mangalore Tiles roof built up area at 404.12 sq.ft. he deducted 51.5 sq.ft towards OTS area and consequentially he had taken up only 353.60 sq.ft. for the purpose of calculating fair rent.

7. Therefore, the contention made by the learned counsel for the revision petitioner with regard to the discrepancy in extent of the built up area is not well founded. As far as the land value is concerned the respondent / landlady's Engineer in his report marked as Ex.P2 had taken the land value at Rs.90,00,000/- based on data sale deed namely Ex.P4 filed by the landlord. The Engineer of the landlord namely P.W.2 in his evidence deposed that data sale deed is relating to a property at Tondiarpet High Road and the petition mentioned building is very near to MM Theatre situated in Thiruvotriyur High Road and also Appollo Hospital. The learned Rent Controller has not accepted the valuation adopted by landlady's Engineer in to-to. The model sale deed namely Ex.R6 produced by revision petitioner / tenant was rejected by the Rent



C.R.P.No.116 of 2022

Controller by saying it was relating to YMCA Kuppam Tondiarpet, Chennai and it is not very near to Pilliar Koil Street where the demised premises is located.

8. Therefore, the valuation of Rs.14,47,200/- mentioned in revision petitioner data sale deed Ex.R6 was not taken into consideration by the Rent Controller. The perusal of Ex.P4 and Ex.P2 make it clear that value of one ground during the year 2009 in the very same locality was Rs.36,00,000/- per ground. However, the learned Rent Controller has taken the land value only as Rs.20,00,000/- per ground. Hence, the valuation for land adopted by learned Rent Controller cannot be treated as excessive. The learned Rent Controller after taking into consideration Ex.P4 which is relating to a property very near to the demised premises and also the locational advantages of the demised premises fixed the land value at Rs.20,00,000/- and the same was accepted by the learned Appellate Authority.

9. I don't find any perversity in the approach adopted by Courts below and hence the revision petitioner has not made out any case for interference with the concurrent findings of the Courts below. Consequently, the Civil



C.R.P.No.116 of 2022

Revision Petition is dismissed. In the circumstances of the case, there will be no order as to costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

29.09.2022

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Index: Yes/ No

Speaking Order / Non-Speaking Order

To

- 1.The Rent Control Appellate Authority,
VII Small Causes Judge, Chennai.
- 2.The XV Small Causes Judge,
Chennai



WEB COPY



C.R.P.No.116 of 2022

S.SOUNTHAR, J.

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21661 of 2021

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