



C.R.P.No.1706 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1706 of 2019

E.Suresh Kumar

...Petitioner/ Appellant
/ Respondent

Vs.

1.R.Shantha Kumari (died)

2.R.Roop Kumar

...Respondent/ Respondent
/ Petitioner

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, as amended by Act 23 of 1973 and by Act 1 of 1980 as against the judgment and decree dated 17.12.2018 in R.C.A.No.325 of 2017 by the learned VII Judge, (Rent Controller Appellate Authority) Court of Small Causes, Chennai, confirming the Fair and Decreetal order passed in R.C.O.P.No.751 of 2015 by the learned X Judge, (Rent Controller), Court of Small Causes, Chennai.



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For Petitioner : Mr.B.Balachander
For Respondents : Mr.M.Devendiran
for R2

ORDER

This is the revision preferred against the order fixing fair rent for the building. There is no dispute on the important parameters such as,

- (1)type of building,
- (2)age of the building,
- (3)Schedule I amenities,
- (4)basic amenities,
- (5)depreciation of the building,
- (6)cost of construction *and*
- (7)the plinth area.

2.Mr.B.Balachander, learned counsel representing Mr.Ashok Menon vehemently contended that the Courts below had failed to appreciate that the tenant has put up the construction for the second floor and the landlord not having produced the Sanction Plan for putting up the second floor is not entitled to make a claim for fair rent for second floor.



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3.The second point which he would submit is that the value of the property is only around Rs.40,00,000/- and fixing the rent at Rs.1,22,00,000/- is excessive. Therefore, he would plead that the revision be allowed and the value of the fair rent fixed at Rs.13,971/- be reduced to Rs.7,287/-.

4.On the first ground that the tenant has put up the construction, the argument that since the landlord has not produced the sanction plan for the building, the presumption is that the tenant has put up the construction, is a very unique indeed. It is for the tenant, who pleaded that he had put up the construction, to produce the record. Therefore, the burden of proof is on the tenant to prove that he had put up the construction. There is no principle of law which states that if the sanctioned plan is not produced by the landlord, the presumption is that the construction has been put up by the tenant.

5.On the contrary, since the tenant has taken a plea that it is he who put up the construction, it is his duty to show that he had put up



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the building for this case, there is absolutely no evidence on forthcoming from the tenant. Not even the Books of Accounts has been filed by the tenant to prove that he has spent a sum of Rs.1,20,000/- towards putting up the construction on the second floor. Therefore, the mere fact that the sanctioned plan has not been produced, does not mean the landlord is not entitled for fixation of fair rent.

6.On the second plea with respect to fixation of value at Rs.1,22,40,000/-, the Rent Controller Appellate Authority has taken the value on the basis of Ex.B.3 which is of the year 2014. The Court below has also stated that there are several locational advantages for the property. Such advantages would also have to be considered into for the purpose of fixation of the market value.

7.Both these findings on the facts having been properly appreciated, I do not find any ground to interfere with the orders.



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Accordingly, this Civil Revision Petition is dismissed. No costs.

10.07.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
mps

To

1.The VII Judge,
(Rent Controller Appellate Authority),
Court of Small Causes,
Chennai.

2.The X Judge,
(Rent Controller),
Court of Small Causes,
Chennai.



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V. LAKSHMINARAYANAN, J.

mps

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