



C.R.P. No.2924 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. No.2924 of 2019

1.A.P. Govindasamynathan

2.A.P.Arunkumar

... Petitioners

Vs.

1.K.A. Pandian

2.Mrs.Gomathi

3.Palaniappan

... Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease and Rent) Control Act, 1960 to set aside fair and decretal order dated 23.04.2019 in R.C.A. No.867 of 2005 on the file of VIII Small Causes Court (Rent Control Appellate Authority), Chennai modifying the fair and decretal order dated 09.12.2004 in RCOP No.1455 of 2003 on the file of XI Small Causes Court (Rent Controller) Chennai and allow the CRP by setting aside the orders passed by both the courts below and fix the fair rent as Rs.7,521/- per month.



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For Petitioner : Mr.S.William
For Respondents : Mr.S.Jaganathan for R1
No Appearance for R2 and R3

ORDER

This revision arises out of an order of the Rent Control Appellate Authority in R.C.A. No.867 of 2005 challenging the inadequacy of the fair rent fixed by the Rent Controller in RCOP No.1455 of 2003 on the file of XI Small Causes Court (Rent Controller), Chennai.

2. The revision petitioner owns a row of 9 shops in Venkatnarayana Road, T.Nagar, a prime locality in the city. Several years prior to 2003, one of the shops, which according to the landlord is the 8th shop, was let out to the respondent for a monthly rent of Rs.200/-, for a plinth area of 272 sq.ft. Contending that the contractual rent originally agreed was not adequate, the landlord approached the Rent Controller in RCOP No.1455 of 2003 for fixation of fair rent under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Indeed the landlord had taken out similar petitions for fixing fair rent for all the other 8 shops as well.



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3. Those petitions were filed in 2002, and they were decided by a common order and disposed of by the Rent Controller. So far as the present shop No.8 is concerned, R.C.O.P. No.1455 of 2003 was filed only in 2003.

4. An engineer came to be appointed, who had assessed the value of the land and the building of all the 9 shops. His report shows that barring shop Nos.1 and 9 which are in two extremes, all the other shops has an equal extent and of construction of similar character. Indeed, each of the shops share a party wall with the other.

5. After evaluating the evidence, the learned Rent Controller fixed the fair rent at the rate of Rs.2,500/- per mensem per shop. However not satisfied with the same, the landlord preferred an appeal before the learned Rent Control Appellate Authority in R.C.A. No.867 of 2005. It appears that it was dismissed for default and was thereafter restored. The learned Rent Control Appellate Authority fixed the fair rent at Rs.4,600/-.

6. The grievance of the revision petitioner/landlord is that for other shops which are similar, if not identical to the character of the present shop both in



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terms of the nature of extent occupied and the construction made, the monthly rent has been fixed by the Rent Control Appellate Authority at Rs.5,083/- per mensem. However in the instant case, the learned Rent Control Appellate Authority chose not to fix it at the same rate, but reduced it by Rs.483/- and fixed the fair rent at Rs.4,600/-.

7. Heard both sides and perused the materials available on record in the form of typed set of papers. The learned counsel for the landlord informs the court that challenging the order fixing the fair rent for other shops, those tenants have approached this court in a batch of civil revision petitions in C.R.P. Nos.1700, 1701 & 2460 of 2014 and C.R.P. No.688 of 2018 and they came to be dismissed, which implies that for the other similarly placed shops, the fair rent was fixed at Rs.5,083/- per mensem.

8. The only error this court could find is that whereas the shop in question occupies an extent of 272 sq.ft., the learned Rent Control Appellate Authority had mistakenly reckoned it as 252 sq.ft. A mere error in arithmetic or stating the factors that influence the value of the property cannot grant the tenant any advantage. Necessarily this court has to interfere with the order of the appellate



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authority and fix the fair rent at Rs.5,083/- per shop per mensem. This apart the order of the Appellate Authority indicates that he was not happy about the landlord letting the appeal to go for default and allowed it to influence his order. This Court records that the learned Rent Control Appellate Authority cannot assume a disciplinarian attitude nor can it summon certain methods adopted in the genre of litigations for victim compensation in road accident cases to cases such as this.

9. Accordingly, this civil revision petition is allowed and the fair rent for the building is fixed at Rs.5,083/- per month. No costs.'

29.03.2023

Asr

To

VIII Small Causes Court (Rent Control Appellate Authority), Chennai



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N.SESHASAYEE, J.,

Asr

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