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C.R.P.Nos.2536 & 3944 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.Nos.2536 and 3944 of 2019

and

C.M.P.No.16727 of 2019

C.R.P.No.2536 of 2019 :-

Prakash Raj Kicha

.. Petitioner

Vs.

Bharat Kumar

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Rent Control Act 18 of 1960 as amended by Act 23 of 1973 & 1 of 1980, to set aside the order and decree, dated 01.07.2019, passed by the VIII Judge, Small Causes at Chennai in R.C.A.No.101 of 2014 and fix the fair rent of the petition premises @ Rs.4,076/- per month as arrived at in Exhibit R1 by the Tenant Engineer viz., RW1 in his report.

For Petitioner : Mr.A.K.Raghavulu

For Respondent : Ms.S.Suganya,
for Mr.K.P.Ashok



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C.R.P.No.3944 of 2019 :-

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Bharat Kumar

.. Petitioner

Vs.

Prakash Raj Kicha

.. Respondent

PRAYER : Civil Revision Petition is filed under Section 25 of the Tamil Nadu Rent Control Act 18 of 1960 as amended by Act 23 of 1973 & 1 of 1980, to set aside the Judgement and Decree, dated 01.07.2019, passed in RCA.No.98 of 2014 by the Learned VIII Judge (Rent Control Appellate Authority) Court of Small Causes Chennai, confirming the Judgement and Decree, dated 22.01.2014 passed by the Learned XI Judge Court of Small Causes Chennai in RCOP.No.1807 of 2012 and allow the above CRP by modifying the orders passed by both the Courts below and fix the fair rent at Rs.31,203/- per month.

COMMON ORDER

These Civil Revision Petitions arise against the common judgement and decree in R.C.A.No.98 of 2014 and R.C.A.No.101 of 2014, on the file of the VIII Court of Small Causes, Chennai dated 01.07.2019. Both the RCAs arose out of the order and decretal order of



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the Rent Controller in RCOP.No.1807 of 2012 on the file of the XI,
Small Causes Court, Chennai.

2. There is no dispute in the jural relationship between the petitioner and the respondent. The petitioner, Mr.Bharat Kumar as the landlord filed RCOP.No.1807 of 2012 for fixation of fair rent. He claimed that the building was about 25 years old and the market value per site is about Rs.5 crores per ground and consequently demanded fixation of fair rent at the rate of Rs.42,360/- per month.

2.1 The respondent entered appearance and filed a counter stating that the rent of Rs.1,440/- that was being paid is itself fair rent and does not require any enhancement. He would allege that the value of one ground is Rs.30,00,000/- in the area and not Rs.5 crores as claimed. On these pleadings, the parties went for Trial.

2.2 The learned Rent Controller fixed it as a Type 1 Class A building and the age of the building as 30 years. There was also an agreement between the parties on the basic amenities available in the



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premises as well as on schedule I amenities. The learned Judge granted 1 % depreciation for 30 years. The only dispute that existed was, whether the Court should opt for Rs.6 crores as claimed by the landlord as against Rs.1,32,00,000/- as claimed by the tenant for fixation of land value and consequently, fix the fair rent.

2.3 Finding that the Ex.P3 is for a property closer to the demised premises as against Ex.R3 which was far away and also taking into consideration the locational advantages, the Rent Controller fixed the fair rent at Rs.23,843/-.

2.4 This order was taken on appeal before the Rent Control Appellate Authority cum VIII Court of Small Causes, Chennai. The learned Judge confirmed the same and dismissed both the appeals filed by the landlord as well as by the tenant.

3. Challenging the concurrent findings, the Civil Revision Petitions have been preferred before this Court.



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4. Heard Mr.A.K.Raghavulu, learned counsel appearing for the petitioner in C.R.P.No.2536 of 2019 and Ms.S.Suganya, learned counsel representing Mr.K.P.Ashok, learned counsel for the petitioner in C.R.P.No.3944 of 2019.

5. Being a concurrent finding on facts, the scope of interference by me under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act is limited. Nevertheless, on perusal of the Engineer's report as well as the Ex.P3 and Ex.R3, I can come to the conclusion that the demised premises is situated in the junction between Govindappa Naicken Street and N.S.C.Bose Road. Therefore, there are locational advantages to the property. The document which has been filed by the landlord as Ex.P3, gives a value of Rs.2,80,00,000/- whereas the document that has been filed by the respondent gives a value of Rs.1,32,00,000/-.



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6. The Court, while fixation of fair rent, should follow more or less the same principles, those adopted under Land Acquisition Act, 1894. Though the Land Acquisition Act contemplates an elaborate procedure, whereas under the Rent Control Act, it is a summary one. However, the principles are one and the same. The value of the property nearer to the demised premises must be chosen as against one which is far away from the same. Both the Courts below have found that the property under Ex.P3 is closer to the demised premises. Therefore, they have opted to choose the same for the fixation of fair rent. This not being arbitrary or capricious, I am not inclined to interfere with the concurrent findings and the civil revision petitions are liable to be dismissed.

7. Accordingly, Civil Revision Petitions are dismissed confirming the judgment and decree passed by the VIII Court of Small Causes, Chennai in R.C.A.Nos.101 & 98 of 2014 dated 01.07.2019. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.



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8. Mr.A.K.Raghavulu, learned counsel for the petitioner in C.R.P.No.2536 of 2019 brought to my notice that pending the proceedings, a sum of Rs.4,00,000/- has been paid to the landlord. He would also state that the possession was handed over on 29.07.2023. Therefore, while calculating the liability of the tenant, Rs.4,00,000/- should be given credit to and also the calculation of fair rent will come to an end with 29.07.2023.

07.09.2023

Index:Yes/No
Neutral Citation:Yes/No
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To
1.The XI Judge Court of Small Causes,
Chennai.

2.The VIII Judge, Small Causes,
Chennai.

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