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C.R.P.No.1624 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

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**THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

C.R.P.No.1624 of 2017 and  
C.M.P.No.7694 of 2017

N.Ravikumar

.. Petitioner

vs

1. K.V.Sundara Babu @ K.V.S.Babu (died)

2. S.Dayalan

[impleaded vide order dated 02.08.2022  
in C.M.P.No.12185 of 2022 in  
C.R.P.No.1624 of 2017]

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 05.04.2017 made in RCA.No.790 of 2014 on the file of IX Small Causes Court, Chennai confirming the fair and decretal order dated 21.11.2014 passed in R.C.O.P.No.2077 of 2012 by the learned Rent Controller XI Judge Small Causes Court, Chennai.

For Petitioner : Mr.R.Alvin Manoj Raj  
for Mr.S.Mohanasundararajan

For Respondent 2 : No Appearance



C.R.P.No.1624 of 2017

ORDER

**WEB COPY** This civil revision petition has been filed by the tenant aggrieved by the fair and decretal order passed in R.C.A.No.790 of 2014 by the IX Small Causes Court, Chennai dated 05.04.2017 confirming the fair and decretal order passed by the Rent Controller in R.L.T.O.P.No.2077 of 2012 dated 21.11.2014.

2. The petitioner is the tenant under the respondent. The petition premises has been leased to the petitioner for non-residential purposes and the petitioner is running a hotel in the petition premises. The petitioner was paying a monthly rent of Rs.23,000/-. The respondent found that the rent that was paid by the petitioner was very low and hence, filed a petition under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (for brevity, “the act”) for fixing fair rent. The respondent sought for a monthly rent of Rs.51,289/-.

3. The petitioner contested the case and ultimately, the Rent Controller,



C.R.P.No.1624 of 2017

after considering the facts and circumstances of the case and on appreciation of evidence, fixed a fair rent at the rate of Rs.35,262/- per month payable from 20.09.2012. Aggrieved by the order passed by the Rent Controller, the respondent filed an appeal in R.C.A.No.755 of 2014 seeking for enhancement of the fair rent. The petitioner also filed an appeal in R.C.A.No.790 of 2014 questioning the fair rent that was fixed by the Rent Controller. Both the appeals were taken up together and heard by the IX Small Causes Court Judge at Chennai.

4. The Rent Control Appellate Authority, on considering the materials available on record and after considering the order passed by the Rent Controller, found that there are absolutely no grounds to interfere with the fair rent that was fixed by the Rent Controller and accordingly, both the appeals came to be dismissed through a common order dated 05.04.2017. Aggrieved by the same, the petitioner / tenant has filed this civil revision petition as against R.C.A.No.790 of 2014.



C.R.P.No.1624 of 2017

5. Heard Mr.R.Alvin Manoj Raj for the petitioner. During the pendency of the civil revision petition, the original landlord died and in his place, his son has been impleaded as the respondent. The name of the impleaded respondent has been printed in the cause list. There is no representation on the side of the impleaded respondent either in-person or through counsel.

6. Learned counsel for the petitioner submitted that both the Courts below failed to appreciate the fact that the respondent was not providing any amenities to the petitioner and hence, adopting 5% for the amenities was not proper. Learned counsel further submitted that the basis on which the Rent Controller had fixed the market value of the property was perverse, since it was not in line with the documents that were available before the Court. The learned counsel also pointed out to the relevant portions in the order passed by both the Courts below and submitted that the same requires the interference of this Court and that the matter has to be remanded back for fresh considerations. In the alternative, the learned counsel for the petitioner submitted that in the event of this Court confirming the order passed by the



C.R.P.No.1624 of 2017

Rent Controller and as confirmed by the Rent Control Appellate Authority, the petitioner must be given some time for payment of the difference in the rent in instalments.

7. This Court has carefully considered the submission made by the learned counsel for the petitioner and the materials available on record.

8. It is clear from the records that the petitioner is using the petition premises for non-residential purposes and is running a hotel. The Rent Controller has correctly determined the type of building as Type-1 Class A1. The petitioner mainly raised the ground that no amenities were available in the petition premises. While considering this ground, the Court below found that the Rent Controller gave due weightage only for the availability of the toilet facility and accordingly allotted 2% for the amenities. The Rent Controller Appellate Authority also took into consideration the fact that the Rent Controller had properly appreciated the land value and he has fixed the value of the land in line with the documents that were relied upon by both



C.R.P.No.1624 of 2017

the parties. Accordingly, the Rent Control Appellate Authority did not find any ground to interfere with the order passed by the Rent Controller.

9. This Court exercising its revisional jurisdiction cannot interfere with the order passed by the Rent Controller and as confirmed by the Rent Control Appellate Authority, unless, this Court is able to find that there is perversity in the findings rendered by the Courts below. This revision cannot be dealt with like an appeal and the scope of interference is very limited. In view of the same, this Court does not find any ground to interfere with the fair rent that was fixed by the learned Rent Controller and which was subsequently confirmed by the Rent Control Appellate Authority.

10. The next issue to be taken into consideration is with regard to the request that was made by the learned counsel for the petitioner for permitting the petitioner to pay the arrears of rent in instalments. This Court is inclined to consider this request made by the learned counsel for the petitioner, since the petitioner has been paying a monthly rent regularly at



C.R.P.No.1624 of 2017

the rate of Rs.23,000/-

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11. The arrears of rent payable by the petitioner is calculated hereunder:

|                                                          |   |                                            |
|----------------------------------------------------------|---|--------------------------------------------|
| The fair rent, that was fixed by the Rent Controller     | - | Rs.35,262/- per month                      |
| The fair Rent was directed to be paid from               | - | 20.09.2012                                 |
| The monthly rent that was paid by the petitioner         | - | Rs.23,000/- per month                      |
| The difference of rent that is payable by the petitioner | - | Rs.12,262/- per month                      |
| The Total Arrears of rent payable till December 2022     | - | Rs.15,08,226/-<br>(Rs.12,262 * 123 months) |

12. Taking into consideration the facts and circumstances of the case and the request made by the learned counsel for the petitioner, this Court is inclined to permit the petitioner to pay the arrears of rent of Rs.15,08,226/- in six monthly instalments starting from February, 2023 onwards. The petitioner shall also pay the monthly rent starting from January, 2023 at the



C.R.P.No.1624 of 2017

rate of Rs.35,262/-. It is made clear that if the petitioner fails to pay the arrears of rent, as directed by this Court, it is left open to the respondent to proceed further in accordance with law.

13. This civil revision petition is disposed of in the above terms. Consequently, the connected miscellaneous petition is closed. There will be no order as to costs.

**12.01.2023**

Speaking Order/Non-Speaking Order.

Index: Yes/No.

Internet: Yes/No

Neutral Citation: Yes/No

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To

1. The IX Small Causes Court, Chennai.
2. The XI Judge Small Causes Court, Chennai.

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C.R.P.No.1624 of 2017

**N.ANAND VENKATESH, J.**  
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C.R.P.No.1624 of 2017 and  
C.M.P.No.7694 of 2017

12.01.2023