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C.R.P. No.3500/2019 and C.R.P.No.1362/20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P. No.3500 of 2019
and C.R.P. No.1362 of 2020
and CMP.No.22958 of 2019

CRP.No.3500 of 2019

Tegam
Proprietor,
M/s. Sri Pooja Hosiery
Old No.86B, New No.179,
Shop No.18, I Floor,
Govindappa Naicken Street,
Chennai-600 001

... Petitioner

VS.

Bharat Kumar

... Respondent

PRAYER: Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), against the common order passed by the VII Small Causes Court (Appellate Authority) at Chennai, dated 22.07.2019 in R.C.A.No.171 of 2015 dismissing the appeal and confirming the order dated 11.02.2015 passed by the XI Court of Small Causes at Chennai (Rent Controller) in R.C.O.P.No.312 of 2014 fixing the fair rent of the petition premises.



AND

CRP.No.1362 of 2020

Bharat Kumar

... Petitioner

VS.

Tegam
Proprietor OF M/s. Sri Pooja Hoseiry
Shop No.18, First floor,
Old No.86/2 (older No.86B), New No.179,
Govindappa Naicken Street,
Chennai-1.

... Respondent

PRAYER: Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), against the Judgment and Decree dated 22.7.2019 passed in RCA.No.214 of 2015 by the Learned VII Judge (Rent Control Appellate Authority) Court of Small Causes, Chennai, confirming the Judgment and Decree dated 11.02.2015 passed by the Learned XI Judge Court of Small Causes, Chennai in RCOP.No.312 of 2014, under sec. 4 of the act.

For Petitioner : Mr.A.K.Raghavulu
(in CRP.No.3500 of 2019)
(For Respondent in CRP.No.1362 of 2020)

For Respondent : Mr.K.P.Ashok
(in CRP.No.1362 of 2020)
(For Petitioner in CRP.No.3500 of 2019)



COMMON ORDER

These two civil revision petitions arise against the order passed in RCA.Nos.171 and 214 of 2015 in RCOP.No.312 of 2014 on the file of VII Court of Small Causes at Chennai. CRP.No.3500 of 2019 has been preferred by the tenant and the CRP.No.1362 of 2020 has been preferred by the landlord. There is no dispute in the jural relationship between the petitioner and the respondent. The parties are referred to in their ranks as per the RCOP.

2.The petitioner in CRP 1362/2020 Bharat Kumar is admittedly the landlord. The subject matter of the RCOP was Shop No.18 in the First Floor of Old Door No.86/2, New Door No.179, Govindappa Naicken Street, Chennai-1. The tenant Tegram, was paying the monthly rent of Rs.4,600/- per month on the first of every succeeding English Calendar month. The area under occupation was 472.15 sq. ft.

3.According to the landlord, he is entitled to a fair rent of Rs.72,481/- . This is on the basis that the value of the site is around Rs.6 crores. The landlord had alleged that the building is a Type-I building and aged about 26 years. He would claim the cost of construction is around Rs.800/- per sq. ft. and after apportioning the site with respect to the other 18 tenants, the



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extent of site comes to around 230 sq. ft., Over all he made a claim of Rs.72,481/-. This was stoutly resisted by the tenant, who claimed that the amount that is paying as Rs.4,600/- itself is fair rent. He would state that the value of the site is not more than Rs.35,00,000/- and the claim of Rs.6 crores is a very fancy figure.

4.The matter was taken up in RCOP.No.312 of 2014 before the Rent Controller. On the side of landlord, PW1 was examined and Exs.P1 to P4 were marked. The respondent examined himself and marked Ex.R1 to Ex.R4. After considering the evidence before him, the Rent Controller fixed the value of the land at Rs.2,88,06,434/- per ground. The tenant was aggrieved over this fixation and stated that the value should be taken at only Rs.1,45,53,000/-. This is as per Ex.R3 that was presented by him.

5.On the contrary, failing agreed over the very same order, the landlord preferred an appeal in RCA.No.214 of 2015 stating that the market value should be around Rs.6,50,00,000/- and demanded that the fair rent should be fixed at Rs.68,010/-.

6.Considering both the appeals together, the learned Rent Control Appellate Authority came to the conclusion that

(i) the building is a Type-1 building



(ii) that the approximate age of the building could be taken as 30 years.

(iii) The plinth area as per the Engineers report of the petitioner is 417.15 sq. ft. with a right on a common passage comes to about 9.77 sq. ft.

The Court below fixed the cost of construction at Rs.586/- per sq. ft. follow the guidelines laid down by the Public Works Department.

7.Insofar as the basic amenities is concerned, the Rent Control Appellate Authority agreed with the Rent Controller and awarded 15%. On depreciation too, the Rent Control Appellate Authority did not differ from the value fixed by the Rent Controller. The apportion value of the site on which the building has been constructed was taken as 169.05 sq. ft.

8.While the major difference seems to be only on the value of the land. Before the Court, there was Ex.P1 and Ex.R3. Both relate to the same area in Govindappa Naicken Street. Under Ex.P3, the value of 208.87 sq. ft. was fixed at Rs.25,07,000/-. Taking that as a base value, for one ground of property on the date of filing of the petition, the Court below fixed it at Rs.2,88,06,434/-.

9.The learned counsel appearing for the tenant would vehemently contend that the Courts below should have gone only as per Ex.R3 which



fix as the value of Rs.1,45,00,000/-. The Rent Controller and the appellate authority arrive at the value of the land on the basis of the same principles that are applied for valuation of properties under the Land Acquisition Act.

10.The document under Ex.R3 is of the year 2012. However, the document under Ex.P3 is of the year 2013. The value of the land has been only increasing in the city of Chennai and therefore, the RCOP having been filed in February 2014, the Court below has rightly taken Ex.P3 while rejecting Ex.R3. closer the sale deed is to the date of filing of the petition, it is better for the Court to adopt the same for valuation. This is exactly what has been done by the trial Court and as well as the lower appellate Court. I do not find any reason to take a different view from the same.

11.No other issue that having been raised, I have no other option than to dismiss the CRP.No.1362 of 2020 and CRP.No.3500 of 2019. At this stage, Mr.A.K.Ragavulu, learned counsel for the tenant would submit that he has handed over the possession on 08.08.2023.

12.He would also states that pending the CRP, he has been paying a sum of Rs.10,000/- per month and which he is entitled to account for and set off as against the fair rent that has been fixed by the Courts below.



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13.I find considerable force in the said submission, the liability to pay fair rent when arise between 13.02.2014 and 08.08.2023. The landlord having received the enhanced rent by virtue of interim orders of this Court, the tenant is entitled to set of the said amount as against the claim under the head of fair rent.

14.In fine, both the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.08.2023

Index : Yes/No
Speaking order/Non-speaking order
Neutral Citation : Yes/No
mjs/vs

To

1.The VII Judge,
Small Causes at Chennai.

2.The XI Judge,
Small Causes at Chennai



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C.R.P. No.3500/2019 and C.R.P.No.1362/20

V. LAKSHMINARAYANAN, J.

mjs/vs

**C.R.P. No.3500 of 2019
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10.08.2023