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C.R.P(MD).No.2369 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.06.2023

Pronounced on : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.R.P(MD).No.2369 of 2019

and

C.M.P(MD)No.12499 of 2019

The Proprietor,
Sri Moogambika Pipe Traders,
Door No.131/E.11, Bharathi Lodge,
S.N.High Road,
Tirunelveli Junction – 627 001.

... Revision Petitioner

Vs.

1.Veena Kandasamy

2.P.Thiruvadi

P.Jesubalan (Died)

3.Thaayammal

4.A.Pathmanaban

5.S.Swaminathan

6.Muthukumarasamy

7.A.Mohammed Ali

P.S.K.Latchumanan (Died)

8.Selvin Francis

9.Jeba Xavier

... Respondents



C.R.P(MD).No.2369 of 2019

PRAYER : Civil Revision Petition filed under Section 25(1) of the Tamilnadu Buildings (Lease & Rent Control) Act 1960 as amended by Act 23 of 1973 and Act 1 of 1980, to set aside the fair and decreetal order dated 19.10.2019 passed in R.C.A.No.4 of 2016 on the file of the Rent Control Appellate Authority (Principal Subordinate Judge), Tirunelveli, confirming the fair and decreetal order dated 14.09.2015 made in R.C.O.P.No.76 of 2009 on the file of the I Additional Rent Controller /I Additional District Munsif Court, Tirunelveli.

For Petitioner : Mr.D.Srinivasaraghavan
for Mr.M.Murugaprabhu
For R1 : Mr.S.Kumar

ORDER

This Civil Revision Petition is filed against the fair order and decreetal order dated 19.10.2019 passed in R.C.A No.4 of 2016 on the file of the Rent Control Appellate Authority (Principal Subordinate Judge) Tirunelveli, confirming the fair and decreetal order dated 14.09.2015 made in R.C.O.P.No.76 of 2009 on the file of the I Additional Rent Controller/I Additional District Munsif Court, Tirunelveli.

2. The brief facts of the case:

The revision petitioner is the 6th respondent in R.C.O.P.No.76 of 2009 on the file of the I Additional Rent Controller/I Additional District Munsif Court, Tirunelveli. The first respondent herein is the petitioner in



R.C.O.P.No.76 of 2009 and he has filed the petition against nine tenants for fixing fair rent in respect of the petition mentioned building therein.

The revision petitioner is the one of the tenant. The respondents/tenants have filed their respective counters. The Rent Controller has allowed the petition in R.C.O.P.No.76 of 2009 on 14.09.2015 fixing the fair rents for the respective tenancy premises based on the evidence and the commissioner's report. Aggrieved by the order of fair rent, the 6th respondent alone (revision petitioner herein) has preferred appeal in R.C.A.No.4 2016 before the Rent Control Appellate Authority/Principal Subordinate Judge, Tirunelveli. Other tenants have not preferred any appeal. After hearing both and after perusal of material records, the appeal in R.C.A.No.4 of 2016 was dismissed by the Rent Control Appellate Authority/Principal Subordinate Judge, Tirunelveli by passing order dated 19.10.2019, thereby, confirmed the fair rent fixed by the Rent Controller, Tirunelveli. Aggrieved by the said order, the revision petitioners/6th respondent approached this Court by way of this Civil Revision Petition.

3. Heard both side and perused the records in this Civil Revision Petition.



4. The learned counsel appearing for the revision petitioner has argued that the landlord has preferred single petition to fix fair for tenancy shops against nine tenants, which itself is not maintainable. The landlord/petitioner has not stated the description particulars of the tenancy premises by mentioning measurements separately. The petition is filed for fixing fair rent at Rs.10,000/- each for 9 shops which are having different measurements. The Rent Controller has not followed the procedures as enshrined in the Act while deciding the fair rent, but has simply followed the report of the commissioner and without appreciating evidences produced by the revision petitioner has fixed the fair rent at Rs.3,720/- p.m. Hence, the revision petitioner has preferred an appeal in R.C.A.No.4 of 2016 before the Rent Control Appellate Authority, who also failed to consider the case of the revision petitioner and dismissed the appeal. Therefore, the order of the Rent Control Appellate Authority confirming the order of the Rent Controller may be set aside and this civil revision petition may be allowed.

5. Per contra, the learned counsel for the revision respondent has vehemently contended that the revision petitioner has admitted that the tenancy premises is situated in a heart of the city surrounded by the commercial premises and also the revision petitioner has specifically



admitted that fair rent was not fixed so far. The respondent has mentioned separate door numbers for the tenancy premises occupied by the tenants. The revision petitioner has also admitted the facts. The respondent/landlord has filed petition for appointing advocate commissioner to note down the physical features of the tenancy shops with the assistance of the PWD authorities. The Advocate/commissioner has visited the building along with PWD authorities and filed his report. The revision petitioner has not preferred any revision against the appointment of the advocate/commissioner or against the report. The other tenants accepted the fair rent fixed by the Rent Controller and they have not preferred any appeal. The revision petitioner alone challenged the fair rent. The fair rent fixed is reasonable one. This Civil Revision Petition has no valid reason to set aside the impugned order. Therefore, this civil revision petition may be dismissed.

6. On hearing both and on perusal of records, it is clear that the first respondent has filed the petition in R.C.O.P.No.76 of 2009 to fix fair rent of rented shops against nine tenants. The door numbers of the 9 tenancy have been separately mentioned in the petition. The revision petitioner is the one of the tenant, who is 6th respondent in R.C.O.P.No. 76/2009. He was examined as R.W.1 who deposed that he took up



tenancy 11 years back and was paying Rs.900/- p.m. since 4 years on the date of evidence. He specifically admitted that the tenancy building is situated in commercial area. There is no dispute that the advocate/commissioner with the assistance of PWD authorities visited the tenancy premises and filed report mentioning the physical features of the tenancy shops. Admittedly, no revision was fled against the appointment of advocate commissioner and report. PWD authorities were examined in the petition and their evidence shows that the rent was fixed based on the guidelines issued by the PWD. Therefore, the contention of the revision petitioner that the tenancy description particulars by mentioning breadth and length is not acceptable, while separate door numbers were stated for the tenancy shops. The revision petitioner has not produced acceptable materials to show that the rent fixed by the Rent Controller is unfair. Therefore, there is no reason to interfere with the rent fixed by the Rent Controller. The rent fixed by the Rent Controller is reasonable one and it cannot be said to be unfair. Considering the above facts and circumstances of the case, the impugned order need not be interfered by way of this Civil Revision Petition and thus, this Civil Revision Petition fails and the same is liable to be dismissed.



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7. In the result, this Civil Revision Petition is dismissed.

No costs. Consequently, connected miscellaneous petition is also dismissed.

22.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

- 1.The Rent Control Appellate Authority
(Principal Subordinate Judge),
Tirunelveli.
- 2.The I Additional Rent Controller /
I Additional District Munsif Court,
Tirunelveli.
- 3.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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Pre - Delivery Order made in
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