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C.R.P (NPD) No.1670 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P (NPD) No.1670 of 2024

1.M/s.Idhayam Garments
Represented by Partner A. Sathak Abdullah
No.15, Ranganathan Street
T.Nagar, Chennai – 600 017

2.A.Sathak Abdullah

3.Mohamed Ali Jinnah

A.Gulam Hussain (deceased)

4. Mrs.Roshan Begum

5. Mr.G.Saleem

6.Mrs.G.Lailathul Jenna

7.Mr.G.Azad

.. Petitioners

vs.

M.Mohamed Gani

..Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the decree and judgment dated 28.11.2023 passed in



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R.C.A.No.97 of 2020 by the VIII Small Causes Court, at Chennai and modifying the fair and decreetal order dated 10.03.2020 passed in R.C.O.P.No.1124 of 2015 by the XII Small Causes Court, Chennai.

For Petitioner : Mr.L.Gavaskar

ORDER

This revision is preferred against the order passed in R.C.A.No.97 of 2020 on the file of VIII Court of Small Causes, Chennai in partly modifying the order of the learned XII Court of Small Causes, Chennai in R.C.O.P.No.1124 of 2015.

2. R.C.O.P.No.1124 of 2015 was presented for fixation of fair rent. The landlord wanted a fair rent of Rs.30,287/-. The relationship between the landlord and the tenant is not in dispute. The only dispute is in the land value. In all other aspects, the parties are ad-idem.

3. On the basis of the pleadings of the parties, they went for trial. On the side of the petitioner/landlord, one Ajeez Mohideen was examined as PW1, he marked Exs.P1 to P4. On the side of the respondent, one Sathak Abdullah entered the witness box. He marked Exs.R1 and R2. No sample sale deeds were marked on the side of the respondent/tenant. On the side of the landlord, Ex.P3 sale deed was



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filed. This relates to the property situate at old No.43, New No.24//3, Golden Plaza, Ranganathan Street, T.Nagar, Chennai – 17. The demised premises is Old No.4/2, New No.15, Ranganathan Street, T.Nagar, Chennai – 17.

4. The argument of the landlord was that the property under Ex.P3 is situated near the demised property and therefore, the Court should take the value of the property at Rs.6 Crores [Rs.6,01,43,198/-] for the purpose of fixing the fair rent.

5. The learned trial Judge had without any reason, reduced the value to Rs.4,50,00,000/-. Aggrieved by the same, two appeals were preferred, one by the landlord and other by the tenant. They were numbered as R.C.A.No.97 of 2020 and R.C.A.No.108 of 2020. As the appeals had been filed against the single order in R.C.O.P, learned Appellate Judge clubbed both the appeals together and disposed them of by a common order dated 28.11.2023. Challenging the common order, the present revision has been filed by the tenant.

6. Mr.L.Gavaskar, learned counsel appearing for the petitioner would vehemently contend that the survey number of property under Ex.P3 sale deed is different from the survey number of the demise



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property and therefore, Courts below ought not to have reversed the order of the Rent Controller and enhanced the fair rent. He would plead that the value was fixed by the Rent Controller at Rs.4,00,00,000/-. This amount, by itself is excessive and hence, learned Judge should have allowed his appeal.

7.I have carefully analyzed the argument of either side.

8. The principle insofar as fixation of fair rent is concerned it is more or less akin to the value that the Court fixes under the Land Acquisition Act. The argument of Mr.L.Gavasakar that since the property is situate in different survey numbers and therefore, the value should not be taken absolutely does not appeal to me. Each property has a different survey number. The Court has to see the proximity as well as the locational advantages while fixing the value. One is situated in Door No.24 and the other is situated in Door No.15. Both the properties i.e., the property covered under Ex.P3 sale deed as well as the demised premises are situated in the busy and expensive area of Ranganathan Street, T.Nagar. Ex.P3 property is only plots away from the demised premises. The fixation of land value should be based on the nearness of the property as well as the nearest value that the property would fetch on



the date of filing of the R.C.O.P. Ex.P3 is a sale deed dated 02.07.2015.

The R.C.O.P is also of the year 2015. Therefore, I am of the view that the learned Rent Controller had arbitrarily reduced a sum of Rs.1,50,00,000/- from the value under Ex.P3 of the property.

9. If the tenant had felt that the value under Ex.P3 was excessive, he should have let in some substantial evidence in the form of other sale deed to show that the value was only Rs.3 Crores. No records had been produced by the tenant.

10. I should note here that the value fixed by the Rent Control Appellate Authority is on the basis of Ex.P3 sale deed and there is no contra evidence on the side of the tenant and therefore, the order of the Rent Control Appellate Authority does not require any interference. The error committed by the Rent Controller had been corrected by the Rent Control Appellate Authority. I do not find any error in the order of the Rent Control Appellate Authority. In any event, I am not in a position to re-appreciate evidence under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.



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11. In fine, the Civil Revision Petition is dismissed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

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To

1. VIII Small Causes Court, at Chennai
2. XII Small Cause Court at Chennai
3. The Section Officer, VR Section,
Madras High Court.



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V. LAKSHMINARAYANAN, J.

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