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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.881 of 2022

1.M/s.Mahalakshmi Traders,
Represented by its Proprietor,
Kannan Venkatakrishnan (deceased),
No.75/155, Govindappa Naicken Street,
Chennai – 600 079

2.K.Srinivasa Rao .. Petitioners

Vs.

Y.Doraisamy .. Respondent

Prayer : The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the judgment and decree dated 26.11.2021 passed in R.C.A.No.302 of 2017 on the file of the VII Court of Small Causes, Chennai varying the order and decree dated 17.02.2017 passed in R.C.O.P.No.1438 of 2013 on the file of the XIII Court of Small Causes, Chennai.

For Petitioners : Mr.V.Sivakumar
for Mr.P.B.Ramanujam

For Respondent : Mr.K.S.Sundar

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ORDER

This revision arises against an order passed under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act.

2. The petitioner is the owner of the property situated at Old No.75, New No.155, Govindappa Naicken Street, Chennai – 600 079. The tenant is occupying the premises for non-residential purposes. The proceedings arose against the tenant in R.C.O.P.No.1438 of 2013. There is no dispute insofar as the type of the building, the depreciation of the building, the age of building, plinth area and the cost of construction are concerned. The only dispute relates to the value of the land.

3. Before the Rent Controller, it was argued that the value of the property is Rs.6,00,00,000/- and therefore, the demand was made for fixation of fair rent at Rs.39,000/- per month.

4. On the side of the petitioner, Ex.P1 to Ex.P4 were marked and on the side of the respondent, Ex.R1 to Ex.R6 were marked.

5. The learned Rent Controller took into consideration the land value

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on the basis of Ex.P3 and came to a conclusion that the value on the date of judgment is Rs.4,38,36,306/- per ground. Applying the formula under the Rent Control Act, he fixed a fair rent at a sum of Rs.32,703/- per month.

6. On appeal, the learned Rent Control Appellate Authority took Ex.P3 as the base valuation and fixed the value of the land at a sum of Rs.4,00,00,000/- and on that basis, he reduced the fair rent to a sum of Rs.30,018/- per month. The error committed by the Rent Controller by taking the date of judgment for the purpose of fixation of the land value was rectified by the learned Rent Control Appellate Authority.

7. However, instead of adding that 15% value of the property, he had enhanced it by "rule of thumb formula" to a sum of Rs.4,00,00,000/-. In C.R.P.(NPD)No.171 of 2022, preferred by the landlord, I have found that on the basis of the document filed by the landlord, the value of the land comes to a sum of Rs.3,31,46,285/-. That being the position, as the demised premises in both the cases are one and the same. I take the land value on the aforesaid figure.

8. Consequently, in other aspects, the order of the learned Rent

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Control Appellate Authority stands confirmed. The Civil Revision Petition is accepted only insofar as the value of land is concerned, which is reduced from a sum of Rs.4,00,00,000/- to Rs.3,31,46,285/-. Therefore, the fair rent is revised as follows :

Land Value : Rs.3,31,46,285/-

Apportioned Value : $\frac{3,31,46,285}{2400} * 167.94$

Land Value : 2,319411.29

Building Value : 202846.00

25,22257.29

Being Non-residential @ 12% = 25,22,257.29 * 12/100

Annual Value = 3,02,670.84

Fair Rent per month = $\frac{3,02,670.84}{12 \text{ (months)}}$

Fair Rent per month = Rs.25,222.57/-

9. In fine, the value of the land is hereby reduced from a sum of

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Rs.4,00,00,000/- to Rs.3,31,46,285/-. The order of the learned Rent Control Authority will accordingly stand modified. Accordingly, the Civil Revision Petition stands allowed. No costs.

10. Since this is not an executing order, it is left open to the landlord to recover the money dues by way of a regular civil proceeding.

03.04.2024
(3/3)

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Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No

To

1.The learned VII Judge,
Small Causes Court, Chennai

2.The XIII Small Causes Court,
Chennai

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V. LAKSHMINARAYANAN, J.

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C.R.P.(NPD)No.881 of 2022
and
C.M.P.No.22915 of 2022

03.04.2024
(3/3)

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