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C.R.P.(NPD).No.2281 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM:

THE HON'BLE MR.JUSTICE P.DHANABAL

C.R.P.(NPD).No.2281 of 2022

G.Somasekar Reddy

... Petitioner

VS

N.Swaminathan

... Respondent

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by Act 23 of 1973, praying to set aside the order and decree dated 02.01.2020 made in R.C.A.No.124 of 2017 by the learned Judge, VII Court of Small Causes, Chennai, against the order and decree dated 05.01.2017 made in R.C.O.P.No.1998 of 2015 passed by the learned XI Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.K.S.Saranath

For Respondent : Mr.Potharaju Ashutosh
for M/s.S.Rajasekar



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ORDER

The petitioner herein has filed this Civil Revision Petition challenging the order passed by the learned VII Judge, Small Causes Court, Chennai in R.C.A.No.124 of 2017. In fact R.C.O.P.No.1998 of 2015 was filed by the respondent/landlord to fix the fair rent and the learned Rent Controller fixed the fair rent as Rs.43,645/- per month. The said order was challenged through appeal in R.C.A.No.124 of 2017 on the file of the VII Small Causes Court, Chennai, wherein the Appellate Authority has reduced the fair rent from Rs.43,645/- to Rs.42,204/- per month. As against the said order, the present Civil Revision Petition has been filed by the petitioner herein/appellant in R.C.A.No.124 of 2017.

2. According to the petitioner, he is the tenant under the respondent and the respondent has filed a petition for fixation of fair rent and the same was allowed by fixing the fair rent as Rs.43,645/- per month. Thereafter, the same was challenged through appeal in R.C.A.No.124 of 2017 before the Appellate Authority and the same was partly allowed by fixing the fair rent as Rs.42,204/- per month. According to the respondent, the Courts below have considered the evidences adduced by both the parties and both the parties



examined the Engineer, who valued the property and then fixed the fair rent.

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3. The learned counsel for the appellant would contend that the petitioner is that the Power of Attorney of the respondent alone has conducted the case and there was no opportunity given to the petitioner to examine his witnesses and thereby, in order to give chance to the petitioner, the matter may be remanded to the Rent Controller for hearing the case afresh by affording an opportunity to the petitioner.

4. The learned counsel appearing for the respondent vehemently opposed and already both sides produced evidences and marked the documents. Before the Appellate Authority, the Engineer was examined as appellant's side witness and the Appellate Court after elaborate discussion and after considering the nature of the property, age of the building and other aspects, fairly fixed the fair rent and therefore, the judgment passed by the Appellate Authority is in order and the present petition is liable to be dismissed.

5. This Court heard both sides and perused all the materials available



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on record.

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6. On perusal of the records, it observed that before the learned Rent Controller, the respondent/landlord has filed a petition for fixation of fair rent and the Tribunal after elaborate discussion allowed the said petition and fixed a fair rent as Rs.43,645/- per month and the same was challenged through appeal in R.C.A.No.124 of 2017 before the Appellate Court. The Appellate Court also after elaborate discussion allowed the appeal, however, the Appellate Court modified the order passed by the learned Rent Controller by fixing the fair rent as Rs.42,204/-.

7. The learned counsel appearing for the petitioner has brought to the knowledge of this Court that already he vacated the premises and the market value of the property has not been properly fixed by the Appellate Authority and he was not examined as witness and his Power Agent only examined, therefore, by examining the petitioner, he could establish the case through sufficient evidence.



WEB COPY 8. As far as contention raised by the petitioner is concerned, already he only authorised the Power Agent to conduct the case through his Power Agent and thereafter, the petitioner has filed a petition before the Appellate Authority for examination of witnesses and the same was also allowed and after affording opportunity only, the fair rent was fixed by the Appellate Authority.

9. But on perusal of the records would show that already sufficient opportunities were given to the petitioner and on behalf of the petitioner also, witnesses were examined and thereafter, before the Appellate Court also, he had filed an application to examine the witness and the same was allowed. At that time, the petitioner has not taken any steps to examine any witnesses and after long time, at the time of argument, he made his submission and same is not acceptable by this Court. Therefore, the judgment passed by the Appellate Court is in order. Therefore, there is no perversity or infirmity found in the judgment of the Appellate Authority and the present civil revision petition is requires no interference by this Court and this petition has no merits and deserves to be dismissed.



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WEB COPY 10. Accordingly, the Civil Revision Petition is dismissed. No costs.

29.04.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

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- 1.The VII Judge, Court of Small Causes,
Chennai.
- 2.The XI Judge, Court of Small Causes,
Chennai.



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P.DHANABAL, J.

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