



WEB COPY



C.R.P.(NPD)Nos.1438 and 2245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)Nos.1438 and 2245 of 2023

&

C.M.P.Nos.9659 and 13623 of 2023

C.R.P.(NPD)No.1438 of 2023 :

1.Zaibunissa (Died)

2.Syed Salahuddin

3.Samsunnisa

4.Syed Sirajuddin

5.Syed Jalaal

6.Kauserunissa

7.Syed Sahahabuddin

8.Mubeen Nisha I

... Petitioners

(Sole Petitioner Died.
Petitioner Nos.2 to 8 are
brought on record as
LRs of the deceased sole
petitioner vide order
dated 21.12.2023 made
in C.M.P.20004 of 2023



C.R.P.(NPD)Nos.1438 and 2245 of 2023

in C.R.P.(NPD)No.1438
of 2023 by TVTSJ)

Vs.

1.T.A.B.Munshiff Sah (Deceased)

2.S.Thangaraj

3.M.Babulal

4.M.Chanderlal

5.M.Lakshmi Bai

... Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order, dated 28.02.2023, in I.A.No.2695 of 1987 in O.S.No.9570 of 1986, passed by the learned XIV Assistant Judge, City Civil Court at Chennai.

For Petitioners : Mr.R.Abdul Mubeen

For R1 : Died

For R2 : Not Ready in Notice

For RR3 to 5 : Mr.T.Gowthaman
Senior Counsel for
Mr.A.Arivasagam

C.R.P.(NPD)No.2245 of 2023 :

T.A.B.Munshiff Sah (deceased)

1.M.Babulal

2.M.Chanderlal



C.R.P.(NPD)Nos.1438 and 2245 of 2023

3.M.Lakshmi Bai

... Petitioners

WEB COPY

Vs.

1.Zaibunissa (Died)

2.S.Thangaraj

3.Syed Salahuddin

4.Samsunnisa

5.Syed Sirajuddin

6.Syed Jalaal S.M.

7.Kauserunissa S.M.

8.Syed Sahahabuddin S.M.

9.Mubeen Nisha I

... Respondents

(Respondent No.1 died.
Respondent Nos.3 to 9
are brought on record as
LRs of the deceased R1
vide Court order dated
21.12.2023 made in
C.M.P.No.20278 of 2023
in C.R.P.(NPD)No.2245
of 2023 by TVTSJ)

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order, dated 28.02.2023, in I.A.No.2695 of 1987 in O.S.No.9570 of 1986, passed by the learned XIV Assistant Judge, City Civil Court at Chennai.



WEB COPY



C.R.P.(NPD)Nos.1438 and 2245 of 2023

For Petitioners : Mr.T.Gowthaman
Senior Counsel for
Mr.A.Arivasagam

For R1 : Died

For RR3 to 9 : Mr.R.Abdul Mubeen

COMMON ORDER

These Civil Revision Petitions challenge the common order passed by the learned XIV Assistant City Civil Judge at Chennai dated 28.02.2023.

2. O.S.No.9570 of 1986 was presented by one T.A.B.Munshiff Sah as against one Zaibunissa for the purpose of ejectment.

3. On being served with the summons, an application was filed invoking the provisions of the Tamilnadu City Tenants Protection Act. The trial Court came to a conclusion that Zaibunissa was entitled to the benefits of the Tamilnadu City Tenants Protection Act. Consequently, an Advocate Commissioner had been appointed to enquire into the actual extent of land that was necessary for the convenient enjoyment by Zaibunissa.

4. In the mean time, the 1st plaintiff passed away and since no steps had been taken to bring on record the legal representatives, the trial Court,



C.R.P.(NPD)Nos.1438 and 2245 of 2023

recording the abatement, had dismissed the suit. However, the Advocate Commissioner, who was appointed in I.A.No.2695 of 1987, filed a report fixing the market value as well as the extent necessary for the occupation of the tenant. The trial Court taking into consideration the report of the Advocate Commissioner fixed the value at Rs.9,204/-, and the extent of land that was necessary for the convenient enjoyment by the tenant as 624 Sq.ft. Challenging the said order, a revision in C.R.P.No.1063 of 2002 had been filed before this Court.

5. The said civil revision petition was dismissed on 12.08.2003 holding that since the legal representatives were brought on record on subsequent proceedings, there is no illegality in the decree that was previously passed.

6. Pursuant to this order, an application under Section 9 of the Tamilnadu City Tenants Protection Act was taken on file, and the trial Court directed the tenant to deposit the amount within one month at the rate fixed above, and on 04.03.2002, it also recorded the payment.

7. Challenging the order of the learned trial Judge passed in



C.R.P.(NPD)Nos.1438 and 2245 of 2023

I.A.No.2695 of 1987, dated 01.02.2022, whereby, a direction was given to the landlord to execute the sale deed, an appeal was preferred before the VI Additional Court in C.M.A.No.82 of 2006.

8. The said appeal was allowed directing the trial Court to fix the market value and accordingly, the learned trial Judge modified the order. Challenging the order passed in C.M.A.No.82 of 2006, a civil revision petition was preferred before this Court in C.R.P.(NPD)No.880 of 2009 by the tenant.

9. It was the argument of the tenant that the lower appellate Court had failed to appreciate the judgment passed in *M.Arasan Chettiar and Others vs. S.P.Narasimhalu Naidu's Estate Trust [(1980) 93 LW 392]*. The tenant would urge that the Court would first have to come to the conclusion that the extent of land that a tenant would require for the purpose of his convenient enjoyment and only thereafter, the Court can fix the value of the land.

10. This argument found acceptance at the hands of this Court, and on 10.04.2019, the civil revision petition was allowed on the following terms



C.R.P.(NPD)Nos.1438 and 2245 of 2023

WEB COPY "The trial Court is required to do the re-exercise and fix the extent of land first and since it was the contention issue, then proceed to fix the market value. While fixing the market value, the Trial Court shall follow the guidelines set out in the judgment made by the Division Bench of this Court reported in *M.Arasan Chettiar's* case (*supra*).

11. On remand by this Court, the learned trial Judge came to the conclusion that the tenant would require an extent of 624 Sq.ft. for the purpose of his convenient enjoyment. Therefore, the learned trial Judge appointed an Advocate Commissioner to submit a report on the value.

12. On 27.09.2022, the Advocate Commissioner inspected the property along with the qualified civil engineer and fixed the value at Rs.13,000/- per Sq.ft. He would also hold that the value of the land alone would come to Rs.86,06,600/-, and granted an additional amount of Rs.1,10,000/- towards other amenities.

13. The respondent/landlord on receipt of the Advocate Commissioner's report pleaded that very low estimate had been fixed by the



C.R.P.(NPD)Nos.1438 and 2245 of 2023

Advocate Commissioner, and that the value of the property which is situated in a prime location in Katcheri Road at Mylapore would fetch not less than Rs.25,000/- per Sq.ft.

14. The learned trial Judge, after hearing the arguments on either side, confirmed that the extent of 662 Sq.ft., as found by the Advocate Commissioner, for convenient enjoyment is correct, and also fixed its value at Rs.87,16,000/-. After having fixed the value at Rs.87,16,000/- for the property, it directed the tenant to deposit a sum of Rs.67,30,000/- for the purpose of Section 9 of the Tamilnadu City Tenants Protection Act.

15. Challenging the order of the learned Judge fixing the value at Rs.67,30,000/-, both the landlord and the tenant are in revision before me.

16. Heard Mr.R.Abdul Mubeen, appearing on behalf of the petitioners in C.R.P.(NPD)No.1438 of 2023 and appearing on behalf of the respondents in C.R.P.(NPD)No.2245 of 2023 and Mr.T.Gowthaman, learned senior counsel for Mr.A.Arivasagam, appearing on behalf of the respondents in C.R.P.(NPD)No.1438 of 2023 and appearing on behalf of



C.R.P.(NPD)Nos.1438 and 2245 of 2023

the petitioners in C.R.P.(NPD)No.2245 of 2023.

WEB COPY

17. Mr.R.Abdul Mubeen would submit that the date for the purpose of fixing the value of the land should be the date on which the civil revision petition in C.R.P.(NPD)No.880 of 2009 was allowed by this Court i.e. on 10.04.2019. Therefore, he would state that the Commissioner should have gone back for a further period of three years and should have fixed the value of the land as on 2016 and should not have taken the value of the land from the year 2020.

18. He would further draw my attention to the guideline value that was issued by the registration department to the civil revision petitioner on 09.02.2023 stating that the value of the property from the year 2012 till date is only Rs.3,000/- and therefore, fixing Rs.13,000/- is excessive and requires interference at the hands of this Court.

19. Mr.T.Gowthaman would invite the attention of the Court to the order passed by the learned trial Judge to argue that having come to the



C.R.P.(NPD)Nos.1438 and 2245 of 2023

conclusion on the extent of the property as 662 Sq.ft. and the value of land as Rs.87,16,000/-, the learned trial Judge arbitrarily reduced it, without giving any reason, to Rs.67,30,000/-. He would therefore argue that the petition in C.R.P.(NPD)No.2245 of 2023 be allowed and the value of the property be restored to a sum of Rs.87,16,000/-.

20. I have carefully considered the arguments on either side and I have carefully gone through the available records.

21. The position of law has been settled by the Division Bench of this Court as early as on 5th February, 1980, when the judgment in reference was pronounced in ***M.Arasan Chettiar and Others vs. S.P.Narasimhalu Naidu's Estate Trust [(1980) 93 LW 392]***. The law laid down by the Division Bench is that a Court which is dealing with an application under Section 9(1) of the City Tenants Protection Act must first come to the conclusion to the extent of the property that the tenant requires for convenient enjoyment and thereafter, go about and fix the value of the property. The reasoning given by the Division Bench is clear from Paragraph No.5 of the order.



C.R.P.(NPD)Nos.1438 and 2245 of 2023

WEB COPY

22. In the present case, it is the argument of Mr.R.Abdul Mubeen that since the civil revision petition was allowed on 10.04.2019, that should be the date from which the Advocate Commissioner and the Court should have gone back by three years for fixing the value. This requires me to look into the order that was passed in C.R.P.(NPD)No.880 of 2009.

23. A perusal of the order passed by Hon'ble Mr.Justice N.Sathish Kumar would make it clear that he had not allowed the application filed by the tenant on that day. In fact, the learned Judge, referring to **M.Arasan Chettiar's** case, came to the conclusion that the trial Court as well as the lower appellate Court had failed to fix the extent of the land and thereafter, fix the value of the land. This Court never fixed the extent of the land in the order under revision. It had remanded the matter to the learned trial Judge to redo the exercise. The learned trial Judge went about and thereafter, did the exercise in and around the year 2022.

24. It is at that stage, the learned trial Judge finally came to the



C.R.P.(NPD)Nos.1438 and 2245 of 2023

conclusion that the extent of the land that is required as 662 Sq.ft.. Then it appointed an Advocate Commissioner and the Advocate Commissioner had gone back by a period of three years and had come to the conclusion that the value of the property is Rs.13,000/- per Sq.ft. He had, ofcourse, included the sum of Rs.1,10,000/- for the other amenities and finally fixed the total value of the land and building at Rs.87,16,600/-. No exception can be taken by the order passed by the learned trial Judge as he had applied the judgment of the Division Bench in ***M.Arasan Chettiar***'s case in a proper letter and spirit.

25. I should point out here that it was the tenant who wanted the trial Court to follow the judgment in ***M.Arasan Chettiar***'s case and was successful in persuading this Court in the revision. Having got the benefit of the order of remand to the trial Court for fixation of value in the year 2019, it does not lie on the mouth of the tenant to argue now that the value had been fixed by this Court in the revision. A careful perusal of the order in C.R.P.(NPD)No.880 of 2019 would show that this Court did not fix the value but had directed the trial Court to first fix the area for convenient enjoyment and thereafter ascertain the value for such extent.



C.R.P.(NPD)Nos.1438 and 2245 of 2023

26. The order passed by Hon'ble Mr.Justice N.Sathish Kumar would make it clear that he had applied ***M.Arasan Chettiar***'s case and had directed the trial Court to redo the exercise. He did not burden himself with an application under Section 9 of the City Tenant Protection Act, and fixed the extent of the land that the tenant required by that order. Therefore, the first argument of Mr.R.Abdul Mubeen stands rejected.

27. Insofar as the second argument of Mr.R.Abdul Mubeen is concerned, he would state that the Court should have taken the guideline of the property for the fixation of the value and should not have gone as per the sale deed. I find this argument as one raised only for the purpose of its rejection. Guideline value of the property is fixed by the Government in terms of the circulars issued under the Registration Act and Stamp Act for the purpose of collection of stamp duty and registration charges. It is too well settled that the guideline value has nothing to do with the market value. The market value has to be ascertained by the actual price that a willing purchaser would pay to a willing vendor. That value arrived at Rs.13,000/- for the property situated in Katcheri Road at Mylapore does not seem to be excessive. Therefore, this argument too fails and deserves rejection.



C.R.P.(NPD)Nos.1438 and 2245 of 2023

WEB COPY

28. That leaves the argument of Mr.T.Gowthaman to be addressed. A perusal of the impugned order shows that the learned trial Judge had come to the clear and categorical conclusion that the value of the property is Rs.87,16,000/-. Having come to that conclusion, the learned Judge has reduced the value of the property to Rs.67,30,000/-. It is oft repeated that the reasons are the heart beat of the order, and in case, no reasons are given, the order is as good as a still born baby. The learned Judge, after having given a detailed discussion and having come to the conclusion that the tenant would have to pay a sum of Rs.87,16,000/- to the landlord for enforcing his right under Section 9 of the Tamilnadu City Tenants Protection Act, had failed to give any reasons as to why he was reducing it by a further sum of Rs.20,00,000/-.

29. I am convinced with the submission made by Mr.Gowthaman that the lack of reason requires interference by this Court. Consequently, the Civil Revision Petition in C.R.P.(NPD)No.1438 of 2023 filed by the tenant stands dismissed and the Civil Revision Petition in C.R.P.(NPD)No.2245 of



C.R.P.(NPD)Nos.1438 and 2245 of 2023

2023 filed by the landlord stands allowed.

WEB COPY

30. To make it abundantly clear, the tenant shall pay a sum of Rs.87,16,000/- on or before 31.08.2024. In case, he does not deposit the aforesaid amount, the petition filed under Section 9 of the Tamilnadu City Tenants Protection Act shall stand automatically dismissed without any further reference to this Court. The connected Civil Miscellaneous Petitions are closed.

25.06.2024

mkn2

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

V. LAKSHMINARAYANAN, J.

mkn2

To

The learned XIV Assistant Judge,

Page No 15 of 16



C.R.P.(NPD)Nos.1438 and 2245 of 2023

City Civil Court at Chennai

WEB COPY

C.R.P.(NPD)Nos.1438 and 2245 of 2023
&
C.M.P.Nos.9659 and 13623 of 2023

25.06.2024