



C.R.P.(NPD).No.3063 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD).No.3063 of 2022

Tatia Global Ventrue Limited
Rep. by its Director S.Pannalal Jain,
81-B, 11th Main Road,
Ambattur Industrial Estate,
Chennai – 600 058.

... Petitioner

-Versus-

Dr.Karikkassery Thomas Joseph Rajan

... Respondent

Civil Revision Petition under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act 1960 to set aside the order and decree passed by the learned VII Small Causes Court Judge at Chennai in RCA.No.51 of 2020 dated 28.06.2022 reversing the appeal filed against the decree and judgment dated 18.12.2019 in RCOP.No.102 of 2017 on the file of the XIV Small Causes Court, Chennai.

For Petitioner : *Mr.Krishna Ravindran,*
for Mr.R.Subramaniam

For Respondent : *Mr.V.Sivakumar for*
Mr.J.James



C.R.P.(NPD).No.3063 of 2022

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ORDER

This civil revision petition arises against the order of the Rent Control Appellate Authority in RCA.No.51 of 2020 dated 28.06.2022 in modifying the order passed in RCOP.No.102 of 2017 dated 18.12.2019.

2. The parties will be referred to as per their ranks in the RCOP.

3. There is no dispute in the relationship of landlord and tenant. There is also no dispute over the identity of the property. The property is situated at No.19, Rutland Gate, 4th Cross Street, Chennai – 34. The tenant was paying a monthly rent of Rs.51,750/-. Finding it to be low, a petition was filed under Section 4 of the Tamil Nadu Buildings (Lease & Rent Control) Act by the landlord.

4. It is the case of the landlord that the premise was situated in a prime area in the city of Chennai and the width of the road is around 35 feet. Further there are also lot of locational advantages as there are 5-star hotels, colleges and hospitals nearby the demised premises. They would claim that the UDS of the property is 886 sq. ft. and the plinth area of the third floor is 1019 sq. ft. They



C.R.P.(NPD).No.3063 of 2022

sought a fair rent of Rs.2,03,969/- taking the market value of the property at

Rs.18,500/- per sq. ft.

5. A counter was filed by the tenant stating that other tenants in the building are paying Rs.45,000/- per month. He would further submit that the tenant had spent several lakhs of rupees and the value of the flat had increased only on account of his expenditure over the property. Apart from that, he would state that the building is old and the landlord has not spent a single paise towards the maintenance of the property. He would further plead that the RCOP be dismissed.

6. On the side of the landlord, an engineer was examined as PW1 and marked Ex.P1 to Ex.P4. Of these, the most important document is Ex.P3 which is the certified copy of the sale deed dated 14.12.2015. On the side of the tenant, an engineer was examined as RW1, and he filed only his report as Ex.R1.

7. On the basis of the document and the evidence let in by the parties, the learned XV Court of Small causes, fixed the land value at Rs.52,050/-.



C.R.P.(NPD).No.3063 of 2022

Aggrieved by the same, an appeal was preferred before the Rent Control Appellate Authority. The Rent Control Appellate Authority fixed the fair rent at Rs.1,81,222/- against which the present revision.

8. Mr.Krishnan Ravindran would submit that the rent control appellate authority had erred in taking the value of the land at Rs.4,50,00,000/-, whereas as per the report of the engineer, the value as per sq.ft. of the property is only Rs.6,323/- per sq. ft. On that basis, he would argue that the value of the property is only Rs.56,00,000/-. He would further argue that in the very same building, a property had been sold on 28.04.2021 and the same had been registered as document No.455 of 2021 and the value of the same has not been taken into consideration by the courts below.

9. Mr.V.Sivakumar would submit that on the side of the tenant, no sample sale deed had been marked and the only sale deed that was available with the court was Ex.P3 and on that basis, the value had been worked out. He would further submit that the report of RW1/Engineer Periyasamy is at best the opinion of an expert under Section 45 of the Indian Evidence Act and therefore, that cannot be taken as the value of the property.



C.R.P.(NPD).No.3063 of 2022

WEB COPY 10. Heard both sides and gone through the records.

11. For the purpose of fixation of fair rent, under Section 4 of the Tamil Nadu Buildings (Lease & Rent Control) Act, the court follows more or less the same principles as those under the Land Acquisition Act.

12. Insofar as this property is concerned, there is no dispute on the following:

- (a) Plinth area,
- (b) Share of car parking,
- (c) Share of common lobby area,
- (d) Basic amenities,
- (e) Schedule 1 amenities, and
- (f) Depreciation.

The only dispute relates to the land value.

13. While arriving at the land value, the court below has taken into consideration Ex.P3. Ex.P3 is a document executed in the year 2015. It has



C.R.P.(NPD).No.3063 of 2022

rightly applied a 15% enhancement on the value of the property and has come to the conclusion that the value is Rs.4,50,00,000/-. The value of the land cannot be fixed with the same certainty as would be sought for by a tenant. There is bound to be some approximation or estimation to the value.

14. Sitting under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, while I am not in a position to re appreciate the evidence, I can certainly look into the fact whether there has been perverse finding or not. As to how the value must be calculated for a building has been settled by a judgment of this court in ***M.Radhakrishna Rao vs. A.B.Ahmed Basha and another, (1993) 1 LW 344.***

15. In the said judgment, this court held that for the purpose of apportionment, the court must not take into consideration the number of flats that are constructed in the area, but should take into consideration only the apportioned land area that is purchased by the landlord.

16. In this particular case, before the lower appellate court, the sale deed dated 17.06.2004 has been marked by the landlord in the appellate stage as



C.R.P.(NPD).No.3063 of 2022

Ex.P5. In the said sale deed, which has also been placed for my perusal, the extent of the land that was purchased by the landlord is 886.86 sq.ft. It is this extent of land that had to be multiplied by the value of the land as on the date of filing of the petition. From Ex.P3, the learned judge has taken the value as Rs.4,50,00,000/-.

17. The submission of Mr.Krishna Ravindran on the document executed in the year 2021 had been ignored by the lower appellate court and it has to be dealt with by me.

18. This document was not filed before the trial court or before the lower appellate court and has been filed for the first time in the typed set of papers along with this revision. I am testing the order of the lower appellate court on the basis of the documents filed before it. I am not an original authority under the Tamil Nadu Buildings (Lease & Rent Control) Act to receive the document without an application under Order XLI Rule 27 of CPC. Therefore, I have to conclude that the sale deed of the year 2021, not having been placed before the trial court or before the lower appellate court, cannot be gone into by me in this



C.R.P.(NPD).No.3063 of 2022

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19. Insofar the report under Ex.R1 is concerned, as rightly submitted by the Mr.V.Sivakumar, the same is only a piece of expert evidence at the hands of the engineer. When there is a sale deed in the form of Ex.P3, the opinion of the expert cannot be sustained. Had the tenants produced any other comparative sale deed during the relevant period, this court could have gone into the same. Unfortunately to the tenant, the same is not available.

20. In the light of the above discussion, I am left with no other alternative than to confirm the order and decreetal order of the learned Rent Control Appellate Authority in RCA.No.51 of 2020 dated 28.06.2022 in modifying the order and decreetal order of the XIV Court of Small Causes in RCOP.No.102 of 2017 dated 18.12.2019.

21. In fine, the civil revision petition is dismissed. No costs.

15.04.2024

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Index : yes / no



C.R.P.(NPD).No.3063 of 2022

Neutral Citation : yes / no
Speaking / Non Speaking Order

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To

The XIV Judge, Court of Small Causes

2.The VII Judge, Court of Small Causes



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C.R.P.(NPD).No.3063 of 2022

V.LAKSHMINARAYANAN, J.

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C.R.P.(NPD).No.3063 of 2022

15.04.2024