



C.R.P(MD)No.519 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.519 of 2022

and

C.M.P(MD)No.2243 of 2022

UCO Bank

represented through its Branch Manager

Singampunari Town

Thiruppathur Taluk,

Sivagangai District.

... Petitioner / Respondent

Vs

M.Vetriselvi

... Respondent / Petitioner

Prayer : This Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control), Act, 1960, to call for the records relating to the judgment and decree dated 02.11.2021 made in RCA No.1 of 2017 on the file of Rent Control Appellate Authority (Subordinate Court), Sivagangai, confirming the fair and decretal order dated 18.11.2016 made in R.C.O.P.No.4 of 2012 on the file of Rent Controller (District Munsif), Thiruppathur, set aside the same and allow the Civil Revision Petition.

For Petitioner : Mr.V.Janakiramulu

For Respondent : Mr.G.Ramapandian



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ORDER

This Civil Revision Petition is filed to call for the records relating to the judgment and decree dated 02.11.2021 made in RCA No.1 of 2017 on the file of Rent Control Appellate Authority (Subordinate Court), Sivagangai, confirming the fair and decreetal order dated 18.11.2016 made in R.C.O.P.No.4 of 2012 on the file of Rent Controller (District Munsif), Thiruppathur, set aside the same and allow the Civil Revision Petition.

2. The building belongs to the respondent. The revision petitioner by way of lease agreement, entered into the possession from 1991. The original rent was Rs.3,000/- per month. For every five years, it was agreed that 10% must be raised. The agreement period was mentioned as 20 years. The agreement came to an end in the month of December 2011. The property is located in the main road, Singampunai consisting of concrete building having two floors, windows were fitted with teakwood and flooring was laid with mosaic and apart from that it has all basic amenities, having a compound wall around it. Near the building, Bank officers' residence, school and several commercial shops are

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available, apart from a hospital. The age of the building is about 42 years. As on June 2012, the market value was Rs.30 Lakhs. Because of the development, it has raised to several Lakhs. So the respondent approached the revision petitioner to enhance the rent. But the revision petitioner refused. Seeking fixation of Rs.24,000/- per months as fair rent, the petition was filed. That was resisted by the revision petitioner by filing counter stating that a fair rent cannot be fixed against the terms of lease deed. The revision petitioner was always ready and willing to renew the lease period. Simply because, in violation of the lease agreement, he is not liable to pay enhanced rent.

3. On the side of the petitioner namely the respondent herein two witnesses were examined, 20 documents were marked. On the side of the revision petitioner four witnesses were examined and no document was marked. At the conclusion of the enquiry process, the Rent Court, calculated the fair rent at the rate of Rs.31,039/- and ordered to pay from the date of the petition without any cost. Against which, this revision is preferred.



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4. As mentioned above, only on a simple ground, this revision is filed by the revision petitioner stating that the respondent herein is not entitled for any enhanced rent against the terms of the lease agreement. But fixing a fair rent is a statutory remedy available to a landlord and the revision petitioner cannot put forth the objection in the form of written agreement. But there cannot be any agreement between the parties to wriggle out of statutory remedy. So the first contention raised by the revision petitioner that the petition is not maintainable, is not at all acceptable and this is liable to be rejected.

5. Similar issue arose in the case of ***Agricultural Chemist Biofertilizer Production Unit Versus M/s.Polykem Laboratories, re. By its Partner K.Ponnusamy (CDJ 2012 MHC 1410)*** wherein the following observation has been made, which portion is extracted by the Rent Court in its order :

" The Tamil Nadu Building (Lease and Rent Control) Act provides for fixation of fair rent either by the tenant or by the landlord and such right is given under Section 4 of the Act and it is a statutory right given to both the parties.



Further under Section 7(2) of the said Act, landlord shall not receive more than the agreed rent when the fair rent has not been fixed. It is seen from Section 7(2) where fair rent of the building has not been so fixed, the landlord shall not claim / receive or stipulate for the payment in addition to the agreed rent. Therefore, in the absence of fixation of any fair rent, the landlord can demand only the agreed rent and in this case as contended by the learned counsel for the revision petitioner, the agreed rent as per Exs.R1 and R2, is the rent fixed by the PWD, but that will not estop the landlord from applying to Rent Controller for fixation of fair rent and the right to fix the fair rent is a statutory right given to the tenant as well as to the landlord and therefore, it cannot be stated that the landlord is estopped from claiming fair rent as he has agreed for the rent fixed by the PWD.

As stated supra, till the fair rent is fixed, the landlord is entitled to claim only the agreed rent and in this case, the landlord has applied for fixation of fair and therefore, the agreement as evidenced by Exs.R1 and R2 will not prevent the landlord from applying to the Rent Controller for fixation of fair rent. Hence the submission of the learned Government Advocate that the petition is not maintainable cannot be accepted."



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5. Against this settled proposition of law, no ground is made out by the revision petitioner. So the petition filed by the respondent herein is maintainable before the Rent Court and the finding recorded by the Rent Court requires no interference. For fixing the fair rent, the Rent Court has taken into account the valuation certificate issued by P.W.2, the Engineer. The report was submitted and marked as Ex.P17. The guideline value of the property pertaining to 2013 was marked as Ex.P18. On the date of the petition, the building was aged about 42 years. That is admitted by both sides. The cost of construction during the relevant period namely 2012-2013 is marked as Ex.P2. The ground floor was having 1710 sq.ft. The first floor is of the equal extent and apart from AC sheet measure about 401.50 sq.ft, was also available. So it was stated that it is a 'A Group' construction. The cost of construction for the ground floor was estimated as Rs.5315/-, for the first floor Rs.4930/-, for the AC sheet roofing, Rs.3035/- per sq.ft. The building value was mentioned as Rs.1800/- for the ground floor, Rs.1700/- for the first floor and Rs.500/- for the AC sheet roofing, as per the report submitted by the engineer.



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6. A mistake was committed by the engineer in mentioning the sq.ft rate. It was corrected by the Rent Controller and the valuation of the building was fixed at Rs.16,86,375/- in total. The depreciation was taken as 1.5%. After deducting the depreciation, the total value of building was estimated at Rs.7,92,503/-. The market value of the property was fixed at Rs.950/- per sq.ft in the year 2013. The value of the land was fixed at Rs.23,11,350/-. With that, the value of the building was added. So the total value was calculated as Rs.31,03,853/-. 12% was taken as the land value since it is a commercial building. $(3103853 \times 12 / 12 \times 100 = 31,038.53)$ rounded off to Rs.31,039/-. That was the monthly rent fixed by the Rent Controller which is more than the claim made by the landlord.

7. But however, by relying upon the judgment of this Court in ***P.Venkataswami Vs. Abdul Rahim and Brothers***, reported in **1962 (I) MLJ page 406**. The above said amount was fixed by the Rent Court. Against which no valid ground is made by the revision petitioner herein. Against the order passed by the Rent Controller, an appeal was preferred by the revision petitioner in R.C.A.No.1 of 2017. The appellate Court



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concurrent with the fair rent fixed by the Rent Court stating that it has been fairly fixed and no interference is called for.

8. Since there is a concurrent order passed by the Rent Controller, as confirmed by the appellate authority, unless the revision petitioner is able to establish that the order suffers from perversity or illegality, this revision will not lie. Except repeating or reiterating the ground made in the original petition and in the appellate Court, this revision is preferred, which I find absolutely not maintainable. Therefore, the order dated 02.11.2021 made in RCA No.1 of 2017 passed by the Rent Control Appellate Authority (Subordinate Court), Sivagangai, confirming the fair and decreetal order dated 18.11.2016 made in R.C.O.P.No.4 of 2012 on the file of Rent Controller (District Munsif), Thiruppathur, requires no interference.

9. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

05.12.2024

NCC :Yes/No

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Index :Yes/No
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To

- 1.The Rent Control Appellate Authority (Subordinate Court),
Sivagangai.
2. The Rent Controller (District Munsif), Thiruppathur.
- 3.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN, J.

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ORDER
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