



CRP.No.1718 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09-01-2025

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Civil Revision Petition No. 1718 of 2021

and

CMP No. 13364 of 2021

Access Represented
by its Chief Executive
Tejendir Singh,
Shop No.2, G2, Gems Court,
Khader Nawaz Khan Road,
Nungambakkam,
Chennai – 600 006

.. Petitioner

Versus

1. Dr.Thaseen Jehan Ahmed
2. Nazneen Jehan Ahmed
Both Represented by their
mother & Power Agent
Dr.Chand Begum,
D.No.2, Gopalapuram,
2nd Street, Chennai – 86.

.. Respondents

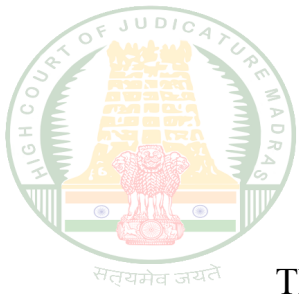
Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, to set aside the decree and order of the Rent Control Appellate Authority dated 01.02.2021 made in RCA. No. 457 of 2016 on the file of the learned VII Judge, Small Causes Court, Chennai confirming the decree and order of the learned Rent Controller dated 17.08.2016 passed in R.C.O.P. No. 570 of 2014 on the file of the learned X Judge, Small Causes Court, Chennai.

For Petitioner

: Mrs. C.R. Rukmani

For Respondents

: Mr. K.V. Sundararajan



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The Tenant has come forward with this Civil Revision Petition questioning the correctness, validity and enforceability of the decree and order of the Rent Control Appellate Authority dated 01.02.2021 made in RCA.No.457 of 2016 on the file of the learned VII Judge, Small Causes Court, Chennai confirming the decree and order of the learned Rent Controller dated 17.08.2016 passed in R.C.O.P. No.570 of 2014 on the file of the learned X Judge, Small Causes Court, Chennai.

2. The Civil Revision Petitioner herein was inducted as a tenant in respect of the shop in Ground Floor bearing No. G (G2), Gems Court, Khader Nawaz Khan Road, Nungambakkam, Chennai – 600 006. The shop which was taken up for rent by the Revision Petitioner measures 420 square feet in a multi-storied complex known as Gems Court. When the Revision Petitioner was inducted as a tenant during April 1999, the monthly rent was Rs.10,500/- and it was enhanced to Rs.12,000/- from August 2005. Subsequently, from November 2009, the rent was further enhanced to Rs.20,000/-. This is not disputed by the Petitioner as well as the Respondents.

3. According to the Respondents/Landlords, the shop let out to the



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Revision Petitioner has all the amenities such as electricity, water supply and drainage connections. There is an electric motor and over head tank constructed to provide water. The brick wall is 9" thick and the building is type I Class A1 category building. According to the Respondents/Landlords, the rent, which is presently being paid by the Revision Petitioner is meagre and not befitting the market value of the property. It is stated that the market value of the property in the locality is Rs.10 Crores and for the shop measuring 420 square feet in occupation of the Revision Petitioner, the fair and proper rent will be Rs.81,805/- per month. According to the Respondents, the Revision Petitioner did not come forward to renew the lease after October 2012 and is paying the rent only at the rate of Rs.20,000/- per month. Therefore, they have filed the RCOP No. 570 of 2014 under Section 4 of The Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

4. On notice, the Revision Petitioner filed a counter statement contending that even though the Revision Petitioner is ready to pay the usual increase in rent from the year 2012, it is the Respondents who have been avoiding to renew the lease for the reasons best known. The Revision Petitioner also disputed the calculation worked out by the Respondents to arrive at the sum of Rs.81,805/- per month as monthly rent by contending it is highly exaggerated and excessive. The Respondents did not make any demand

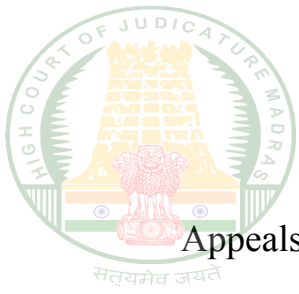


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to pay the enhanced rent as per the prevailing market value. However, they have straight away filed the present Original Petition under Section 4 of the Act. Therefore, it was contended by the Revision Petitioner that there is no cause of action at all for filing the Original Petition and accordingly, he prayed for dismissal of the Rent Control Original Petition.

5. Before the learned Rent Controller, on behalf of the Respondents/Land Lord, Mr. P. Anbarasan, Engineer was examined as P.W-1 and Ex.P-1 to Ex.P-4 were marked. On behalf of the Revision Petitioner/Tenant Mr. G. Chelliah Sarathy, Engineer was examined and Ex.R-1 to Ex.R-3 were marked. The learned Rent Controller, taking note of the fact that the property in question is being utilised for a commercial purpose and also the documents filed by both sides, fixed the fair rent at Rs.36,134/- per month.

6. Aggrieved by the fixation of fair rent by the learned Rent Controller, both the Revision Petitioner/Tenant as well as the Respondents/Landlords have filed Rent Control Appeal before the Appellate Authority. While the Revision Petitioner/Tenant filed R.C.A. No. 457 of 2016, the Respondents/Landlords have filed R.C.A. No. 503 of 2016. The Appellate Authority, by a common judgment dated 01.02.2021, dismissed both the



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Appeals and confirmed the fair rent fixed by the learned Rent Controller.

Aggrieved by the same, this Civil Revision Petition is filed only by the Tenant.

The Respondents/Landlords have not filed any revision as against the common order dated 01.02.201 passed in the Appeal filed by them against R.C.A. No. 503 of 2016.

7. The learned Counsel for the Revision Petitioner submitted that the Courts below placed reliance on Ex.P-3 which does not reflect the true and correct market value prevailing in the locality. The property covered under Ex.P-3 was purchased by a Non-residential Indian and therefore, the price quoted thereunder might be a fanciful price. Further, after Ex.P-3 sale deed, the market value of the property has not been enhanced at least for three years. The Courts below also failed to take note of the fact that at the time when Ex.P-3, sale deed was registered in respect of the property consists of ground and first floor, there were vacant land surrounded by all the four sides. Whereas, the building in question is a multi storied building which consists of both residential and commercial buildings. On the other hand, under Ex.R-2, sale deed marked on behalf of the Revision Petitioner/Tenant, it was a shop located on the same premises and registered subsequent to the filing of the Original Petition. The price of a ground quoted in Ex.R-2 is Rs.2,91,12,000/- whereas, the price of a ground quoted in Ex.P-3 was Rs.12 Crores, which is



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around Rs.8 Crores more than the price quoted under Ex.R-2. It is also contended that the Original Petition has been filed without any cause of action inasmuch as the Respondents/Landlords have straightaway filed the Original Petition without making any demand for enhanced rent from the Revision Petitioner/Tenant. Therefore, it is stated that in the absence of any cause of action, the learned Rent Controller ought not to have entertained the Original Petition. In any event, the Courts below omitted to consider Ex.R-2 and there is no reason assigned for not considering the same. The learned Counsel for the Revision Petitioner further submitted that the fair rent of Rs.36,134/- fixed by the learned Rent Controller and confirmed by the Appellate Authority is excessive and exorbitant and it is not in consonance with the prevailing market value in the locality.

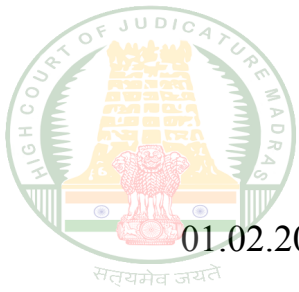
8. The learned Counsel for the Revision Petitioner/Tenant invited the attention of this Court to the calculation given by the Engineer appointed by the landlords where, he had fixed the value of Rs.8,00,00,000/- which is not a value reflecting the leased out premises. The learned Rent Controller, relying on the report of the landlord's Engineer had erred in fixing the fair rent of Rs.36,134/- per month. There is no specific reason stated by the learned Rent Controller for not considering the valuation report submitted by the Engineer appointed by the tenant. The Appellate Authority also failed to consider the



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above said aspect while confirming the fair rent fixed by the learned Rent Controller. Accordingly, the learned Counsel for the Revision Petitioner/Tenant prayed for allowing the Civil Revision Petition by setting aside the order of the Courts below fixing the fair rent at Rs.36,134/-.

9. Per contra, the learned Counsel for the Respondents/Landlords submitted that the Respondents had leased out premises having 420 sq.ft in the ground floor of the building for commercial purpose. The Tenant was inducted in the year 1999 for a monthly rent of Rs.10,500/- and presently, he is paying monthly rent of Rs.20,000/-. Due to the enhanced rental value prevailing in the locality, the Respondents/Landlords filed the Petition seeking fixation of fair rent at Rs.81,805/- from Rs.20,000/- per month, whereas the learned Rent Controller fixed the monthly rent of Rs.36,134/- as fair rent. The Appeal filed by the Respondents/Landlords was also dismissed by the Appellate Authority. The learned Counsel for the Respondents submitted that the Respondents/Landlords have not preferred any revision assailing the Judgment of the Appellate Authority and it has become final. However, it is submitted that the rent fixed by the learned Rent Controller and confirmed by the Appellate Authority itself is very meagre. The fair rent was fixed by the learned Rent Controller on 17.08.2016 against which the Appeals preferred by the Tenant as well as Landlords was dismissed by the Appellate Authority on



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01.02.2021. Therefore, at this distance point of time, the fair rent fixed by the Courts below need not be reduced any further and accordingly, he prayed for dismissal of the present Civil Revision Petition filed by the Tenant.

10. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents. Perused the Order passed by the learned VII Judge, Small Causes Court and the Order passed by the learned X Judge, Small Causes Court, Chennai, which are impugned in this Civil Revision Petition.

11. The point for consideration that arose for consideration in this Civil Revision Petition is as follows:-

(I) Whether the learned Rent Controller Appellate Authority and the learned Rent Controller had not considered the calculation arrived at by the valuer/Civil Engineer appointed by the tenant?

(ii) Whether the learned Rent Controller had not considered Ex.P-3 which is a sale deed of the year 2014 in a flat in the same building without specifying any reason who had considered the valuation of the independent house purchased by NRI for Rs.8,00,00,000/- having first floor and ground floor?

(iii) Whether depending on such sale deed was fair to fix the fair rent?

12. At the outset, it is to be pointed out that this Civil Revision

Petition is filed under Section 25 of The Tamil Nadu Buildings (Lease and Rent

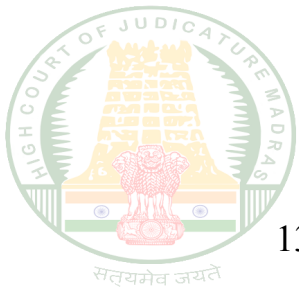


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Control) Act assailing the orders passed by the Courts below. A revision under

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Section 25 of Act can be considered by this Court only if it is shown that the orders passed by the Courts below are perverse and based on irrelevant material facts. It must be stated that the powers conferred under Section 25 of the Act to this Court is wider than Section 115 of the Code of Civil Procedure, however, Section 25 of the Act only indicates that this Court can exercise supervising power over the orders passed by the Courts below. To be precise, where two views are possible under the same set of facts, this Court, sitting in Revision, cannot interfere with the findings of the Courts below. The revisional Court, exercising power under Section 25 of The Act cannot act as if it was sitting in Appeal, appreciate evidence, weigh the same and by that process, reach a different conclusion than that was arrived at by the Appellate Authority as well as the learned Rent Controller, to reverse the findings rendered thereof. In the decision in ***Ganesan vs. Amaravathi Ammal 1983 (2) MLJ 505 at 508*** it was held that the power available to this Court under Section 25 is only to satisfy itself with the correctness or propriety of the order passed by the courts below and not to re-appreciate the facts of the case to arrive at it's own finding. With this legal backdrop, this Court proceeds to consider the validity and enforceability of the orders passed by the Courts below, which are impugned in this Civil Revision Petition.



13. On consideration of the materials placed before this Court, it is found that the land value of the premises was Rs.8,00,00,000/- as per Ex.P-3 filed on behalf of the landlords. Whereas the valuation relied by the valuer appointed by the Tenant/Revision Petitioner under Ex.R-2 was Rs.2,91,12,000/- for a flat which was nearer to the premises where the property is situated. The learned Rent Controller had not considered the same on the ground that Ex.R-2 was only based on the guideline value of property, whereas the valuation relied by the landlords under Ex.P-3 was based on market value. Therefore, it was held that the market value of the property reflected in Ex.P-3 can be relied on to fix the proper and correct fair rent for the premises in question. The sale deed relied on by the landlords in Ex.P-3 was of the year 2013 whereas the sale deed relied by the tenant was of the year 2014 which does not reflect the true market value. Therefore, the omission on the part of the Courts below from considering Ex.R-2, produced on behalf of the Tenants is proper and justifiable.

14. It is seen that the learned Rent Controller had not considered the valuation report of the valuer appointed by the landlords, but calculated the fair rent based on the plinth area measurement taken by the valuer appointed by the tenant inside the leased out premises which is 321.87 sq. ft and proceeded to calculate the fair rent accordingly. Even though the landlords calculated the



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fair rent to be fixed at Rs.80,000/-, the learned Rent Controller on consideration of the documents preferred by the independent valuer appointed by the tenant and the independent valuer appointed by the landlord calculated the fair rent based on the area in occupation of the tenant. Thus, the calculation reached by the learned Rent Controller is based on the materials provided by both the landlords and the tenant to arrive at a just and fair market value. Such a discretion exercised by the learned Rent Controller, who assess the evidence independently cannot be interfered with by this Court in exercise of power under Section 25 of The Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

15. The learned Rent Control Appellate Authority upon perusal of the fair rent fixed by the learned Rent Controller dismissed both the Appeals preferred by the landlords seeking higher rent and for higher calculation as well as the Tenant for reducing the rent. In Para No.10 of the common Judgment, the Appellate Court, for fixing the rent, had taken into consideration (i) type of building (ii) age of building (iii) Plinth area and cost of construction (iv) basic and schedule 1 amenities (v) depreciation (vi) apportioned area and (vii) land value. Thereafter, the Appellate Authority proceeded to discuss the availability of the above parameters in this case and concluded that the fair rent fixed by the learned Rent Controller is as per the rate fixed by the Public Works



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Department and found that there is no reasonable ground to interfere with the order passed by the learned Rent Controller.

16. As mentioned above, the landlords have not come forward with a Revision Petition assailing the common judgment passed by the learned Appellate Authority. On careful assessment of the common judgment passed by the Appellate Authority, this Court is of the view that interference of this Court is not warranted. In fact, the fair rent was fixed on 17.08.2016 by the learned Rent Controller. The Appeals preferred by the Tenant as well as Landlords were dismissed on 01.02.2021. Therefore, at this distant point of time, this Court conclude that it is not justifiable to reduce the fair rent fixed, at the instance of the Tenant. The Civil Revision Petition has no merits and this Court is not in a position to interfere with the well reasoned and well considered orders passed by the Courts below independently in exercise of the powers conferred under Section 25 of the Act.

17. In the light of the above discussion, the points for consideration are answered in favour of the Respondents and against the Revision Petitioner/Tenant. The decree and order of the Rent Control Appellate Authority dated 01.02.2021 made in RCA.No.457 of 2016 on the file of the learned VII Judge, Small Causes Court, Chennai, confirming the decree and



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order of the learned Rent Controller dated 17.08.2016 passed in RCOP.No.570 of 2014 on the file of the learned X Judge, Small Causes Court, Chennai is found proper.

In the result, **this Civil Revision Petition is dismissed.** The decree and order of the Rent Control Appellate Authority dated 01.02.2021 made in RCA.No.457 of 2016 on the file of the learned VII Judge, Small Causes Court, Chennai, confirming the decree and order of the learned Rent Controller dated 17.08.2016 passed in RCOP.No.570 of 2014 on the file of the learned X Judge, Small Causes Court, Chennai is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

dh



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To

1. The VII Judge,
Small Causes Court,
Chennai.
2. The X Judge,
Small Causes Court,
Chennai.



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SATHI KUMAR SUKUMARA KURUP, J.

dh

Judgment made in
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