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CRP NPD.Nos.5156, 5157, 5178, 5179, 5182, 5187, 5195, 5210 & 5231 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD.Nos.5156, 5157, 5178, 5179, 5182, 5187, 5195,
5210 & 5231 of 2024

CRP NPD No.5156 of 2024

D.Manickavasagam

... Petitioner

Versus

Sathrasala Venkatachellum Chetty's Charities,
Rep. by its Trustee Ms.Suneetha Suresh

... Respondent

PRAYER : Petitions filed under section 25 of Tamilnadu Buildings [Lease and Rent Control] Act, 19960 to set aside the judgment and decree dated 19.02.2024 in RCA.No.95 of 2023 passed by the Rent Control Appellate Authority / VII Small Causes Court, Chennai, confirming the fair and decreetal Order dated 19.02.2019 in RCOP.No.542 f 2016 passed by the XIV Small Causes Court, Chennai.

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For petitioners : Mr.Anban Bharathy S.A.

For respondent : No appearance

COMMON ORDER

Challenging the Order of the rent controller as well as the appellate authority fixing fair rent in respect of the tenanted premises, the present revisions have been filed.

2. A petition has been filed by the landlord on the ground that the premises is the commercial cum residential complex situated in the heart of the city near High Court of Madras, Central Railway station, beach railway station. Hence, sought to fix fair rent. The respondents in the rent control proceedings disputed the same.

3. The contention of the petitioners is that, according to them, the



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petition has been filed only for claiming more rent to vacate the respondents from the petition mentioned premises. It is also stated that the petitioner has not disclosed the nature of trust, whether it is private or public trust. Hence, opposed the petition. Further it is stated that there is no cause of action for filing Rent Controller proceedings.

4. The rent controller considering the evidence on record fixed the fair rent which has been confirmed by the rent control appellate authority. Challenging the same, the present revisions have been filed.

5. The main contention of the learned counsel appearing for the revision petitioners is that the Tamilnadu Buildings [Lease and Rent Control] Act is not applicable to a public charitable trust. Admittedly, the respondent, which is a public trust, in a earlier round of litigation, in CRP NPD Nos.1298 to 1305 of 2005, this Court has clearly held that the respondent is a public trust will not come under the purview of Tamilnadu Buildings [Lease and Rent Control] Act. Therefore, once, this Court has



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already decided the issue and the Government has already exempted the public trust from all the provision of the Rent Control Act, rent control proceedings is not maintainable.

6. One of the trustee appeared through video conferencing and submitted that they have already filed a scheme suit in respect of the public charitable trust and the same is pending.

7. Heard the learned counsel appearing for the petitioner and perused materials available on record.

8. In an earlier round of litigation filed against certain tenants for eviction on the ground of willful default, which came up before this Court in Civil Revision Petitions in **CRP [NPD] Nos.1295 to 1305 of 20025 [Sukhraj Bhawarlal Vs. Jawari Bai and others]**, in para 9 and 10, this Court has held as follows :

9. As far as this case is concerned, a perusal of the



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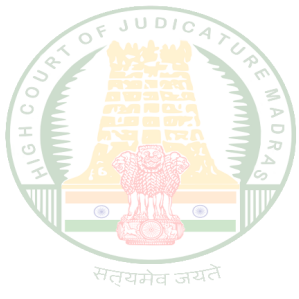


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Trust Deed itself would show that the trust was created for charitable purposes, may be for particular two communities.

In the instant case, the Trust itself filed RCOP.No.1638 of 2005 in the Rent Control Court. But later withdrawn the said RCOP and the same was dismissed as not pressed on 10.11.2005. The Chief tenant-first respondent himself filed I.A.No.12385 of 1996 in O.S.No.11282 of 1996, which is a suit filed by him, wherein, he himself described the Trust as a Public Trust. After submitting that the second respondent is a Public Trust, now the first respondent-chief tenant contends that it is a private Trust and therefore, it is within the purview of the Act.

10. But as already stated a perusal of the Trust Deed would show that it is a Public Trust created for doing certain religious and charitable activities by the trustees. Since the second respondent is a Public Trust, the rent control



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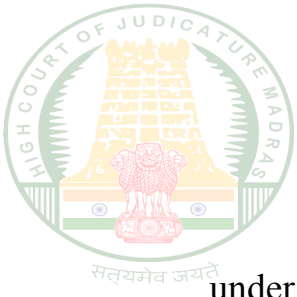


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proceedings cannot be initiated because the building owned by the said Public Trust is exempted under Section 29 of the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960.”

9. As far as the finding with regard to the nature of the trust, the same has reached finality and the same has not been challenged. It appears that the said judgment has not been brought to the notice of the rent controller as well as the rent control appellate authority. Therefore, the appellate Court has confirmed the Order of the trial Court.

10. On a perusal of records, this Court is of the view that there cannot be waiver as against the statute. When the statute clearly prescribe that the very applicability of the Act exempted to certain class of buildings as per Section 29 of the Tamilnadu Buildings [Lease and Rent Control] Act and as per G.O.Ms.No.2000 dated 16.08.1976, still fixing fair rent by invoking provisions of the Tamilnadu Buildings [Lease and Rent Control] Act and its applicability itself is exempted by statute is not permissible



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under law.

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Accordingly, this Civil Revision is allowed. The Orders of the Rent Controller as well as the Rent Control Appellate Authority are set aside. No costs.

30.01.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

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



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N. SATHISH KUMAR, J.

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