

(1978) 01 MAD CK 0016
In the Madras High Court
Case No : C.R.P. No. 949 of 1978

C.G. Ramanathan

APPELLANT

Vs

Commissioner, Corporation of Madras

RESPONDENT

Date of Decision : 18-01-1978

Acts Referred:

City Municipal Corporation Act, 1919 — Section 100

Citation : (1978) 01 MAD CK 0016

Hon'ble Judges : Ramaprasada Rao, C.J

Bench : Single Bench

Advocate : A.C. Muthanna, M. Subramanian and N. Rajaram, for the Appellant;
S. Palaniswami, for the Respondent

Judgement

Ramaprasada Rao, C.J.—The owner of premises No. 72, Archbishop Mathias Street, Madras, aggrieved by the order of the Chief Judge,

Court of Small Causes, Madras (Appellate Authority under the Tamil Nadu Buildings (Lease and Rent Control Act, 1960), who fixed the annual

value of the premises at Rs. 10,920 has filed this Civil Revision Petition. The main contention before me is that even though the property would

fetch a rent of Rs. 900 per month and an additional income of Rs. 400 per month towards amenities provided in the premises earlier to 31st March

1973, yet after 31st March 1973, to wit, in June 1973, the premises were let out to Parry and Co., for occupation by one of its officers, on a rent

of Rs. 600 per month and an additional charge of Rs. 200 per month for amenities. The main contention of Mr. Gopinath, learned counsel for the

petitioner, is that as there is proof of payment of such rent in the form of rent receipts and a lease deed inter se between the landlord and the

tenant, there is no possibility of any speculation in this case and that the rent

ought to be fixed on the basis of the actuals and not on mere assumptions or best judgment method. On the other hand, Mr. Palaniswami, learned counsel for the Corporation, would refer to S. 100 of the City Municipal Corporation Act, 1919, and would say that in certain circumstances, the actuals paid by the tenant may not be a safe guide for arriving at the annual valuation of the premises, as other circumstances should also be taken into consideration to fix the reasonable rent which the property is likely to fetch in the open market, if let out freely. For this purpose he would rely upon the admitted fact that the same property, before it was let out to Parry and Co., was fetching a monthly rent of Rs. 1,300 made up of Rs. 900 rent and Rs. 400 as charges for amenities. He would also contend that the landlord had accepted the assessment on the rental basis of Rs. 1000 per month even at the time when the rent was Rs. 900 plus Rs. 400 (rent and amenities). He would, therefore, seek to sustain the order of the Appellate Authority who fixed the rental value at Rs. 1000 and directed the taxing authority to arrive at the annual value on that basis. In order to arrive at the annual valuation of the premises, which is ordinarily let out and which is within the jurisdiction of the Corporation of Madras, the taxing authorities are entitled to assess and estimate the rent which the property may reasonably be expected to fetch, when the property is leased out in the normal course. What is "reasonably be expected to fetch", is a matter which varies from case to case; it all depends on the facts of each case. If there is no proof of letting the building prior to the challenged valuation for the purposes of fixing the property tax, then the yardstick adopted by the Corporation in fixing such reasonable rent can be scrutinized by the authorities in the higher hierarchy. But if, on the other hand, there is proof or, at any rate, acceptable material on which the taxing authorities can act and arrive at the reasonable rent which the property would fetch in normal circumstances, then such material cannot be lightly brushed aside, and it is not open to the owner to dictate that the rent which was being paid by the tenant in occupation, after negotiations with him, should be taken, willy nilly, as the basis for arriving at the annual value of the premises. In fact, a Division bench of this Court in *Municipal Council, Tiruvelveli v. Hanijja* 1969-2 M.L.J. 495 while considering a provision under the District Municipalities Act, which is in pari materia with S. 100 of

the City Municipal Corporation Act, observed that, though the Municipality, while determining the annual rental value, was not bound by the actual rent paid by the tenant, the rent fixed under the lease deeds should normally be taken as the best prima facie evidence, in the absence of proof that any other element was responsible for fixing up a lower rent, and that, if the Municipality wanted to enhance the rent, there must be proof that a hypothetical tenant intending to use the property for the same purpose would pay more. In the instant case, it is not necessary to consider a hypothetical tenant, for, a few months before the date when the property was teased out to Parry and Co., the property was fetching a rent of Rs. 900 per month with an additional amount of Rs. 400, towards charges for amenities. It, therefore, appears to me that, having regard to such material, which is acceptable and which ought to be acted upon, the authorities should be asked to arrive at the annual valuation of the premises on that basis for the reason that it is not questioned before us as being either, unfair or illusory. In fact, it appears that the Corporation estimated the rent, in spite of the available proof as stated above, on the basis that the rental yield was Rs. 1000 As to why this was done is not clear. It is in this sense that the decision of the Division Bench referred to above comes to the rescue of the petitioner. If there is available material which has to be accepted and against which nothing is said, then it is mandatory on the part of the taxing authorities, functioning under the City Municipal Corporation Act, to adopt the rent quoted in the lease deed, unless it is shown to be far too lower than the market rent. No such inference can be drawn in the instant case. I am unable to agree with the Appellate Authority when it adopted the total rent of Rs. 1300 which included a sum of Rs. 400 towards charges for amenities, and having found that the total rent ought to be Rs. 130, and allowing a deduction of Rs. 200, it arrived at the monthly rent of Rs. 1000. I am unable to accept this conclusion. There is abundant proof, which is also admitted, that a few months before the premises were let out for Rs. 900 per month, the additional amount of Rs. 400 being referable to amenities. It follows that the reasonable rent which the premises can be expected to fetch at all times can be fixed at Rs. 400 per month. In this view of the matter, the order of the Appellate Authority cannot be sustained. It is accordingly set aside, the rental value is fixed at Rs. 900 per month, and the taxing authorities will fix the annual

valuation on this basis.

2. The Civil Revision Petition is allowed. There will be no order as to costs.