

(1985) 10 MAD CK 0003
In the Madras High Court
Case No : C.R.P. No. 2466 of 1984

Collector of Madras

APPELLANT

Vs

C. Logeswara Rao

RESPONDENT

Date of Decision : 18-10-1985

Acts Referred:

Citation : (1985) 10 MAD CK 0003

Hon'ble Judges : S.A. Kader, J

Bench : Single Bench

Advocate : Krishnaswami for Addl. Government, for the Appellant; R. Balakrishnan, for the Respondent

Final Decision : Dismissed

Judgement

S.A. Kader, J.—The revision is against the order of the Court of the Chief Judge, Court of Small Causes, Madras, and Appellate Authority

under the Tamil Nadu Buildings (Lease and Rent Control) Act in M.P. 1646 of 1981 in H.R.A. 530 of 1981. The tenant is the revision petitioner.

The respondent herein is the owner of the petition scheduled residential premises and the petitioner herein is a statutory tenant under the provisions

of the Tamil Nadu Buildings (Lease and Rent Control), Act, 1960 hereinafter referred to as the Act. The respondent-landlord filed an application

before the Rent Controller, Madras, under S. 4 of the Act for fixation of fair rent. The Rent Controller fixed the fair rent at Rs. 662 per month

payable from the date of the commencement of the original tenancy subject to the law of limitation. Aggrieved thereby the tenant revision petitioner,

who is the Collector of Madras, preferred an appeal before the Appellate Authority in H.R.A. No. 530 of 1981. The Appellate Authority fixed the

fair rent at Rs. 500 per month to be given effect from the date of the application. Thereupon the tenant filed M.P. 1646 of 1981 before the

Appellate Authority for review of the order. He contended that as per the Bench decision of this Court rendered in *The State of Tamil Nadu rep.*

by the Accommodation Controller v. K.N. Danasekar 93 L.W. 207, the fair rent fixed under the provisions of the Madras Buildings (Lease and

Rent Control) Act in respect of a building taken over by the Government shall become effective from the date of the commencement of the original

tenancy itself subject to the law of limitation, the order of the Appellate Authority directing payment of the fair rent from the date of the application

is a mistake and prayed for review of the appellate order and to direct the fair rent to be paid from the date of commencement of the tenancy

subject to the law of limitation in accordance with the aforesaid Bench decision. The application was resisted by the tenant, but the learned

Appellate Authority allowed the application. Hence this revision by the tenant.

2. The only contention advanced by the learned Government Advocate appearing for the revision petitioner-the Collector of Madras and

Accommodation Controller, is that the Rent Controller and the Appellate Authority under the Act are only *persona designata*, that they are not

courts, that the provisions of the CPC have no application and they have therefore no right to review their orders. It is needless for the purpose of

this case to go into the question whether the Rent Controller and the Appellate Authority are courts and whether the CPC as such applies to the

proceedings before them. Suffice it to point out that the Rent Controller and the Appellate Authority empowered to determine questions affecting

the rights of citizens are certainly judicial bodies and the proceedings before them are undoubtedly of a judicial nature. It is a well settled principle

that such judicial and quasi judicial Tribunals adjudicating upon the rights of parties must possess inherent powers, apart from the express

provisions of the law, which are necessary for their existence and for the proper discharge of the duties imposed upon them by law. Every judicial

or quasi judicial body, in the absence of express provision, must be deemed to possess, as inherent in its very constitution all such powers as are

necessary to do the right and to undo the wrong in the course of the administration of justice. This is based on the principles embodied in the

maxim--Quando lex aliquid alicut concedit corriere vidature id quo res ipsa esse non potest (when the law gives anything to any one, it gives also

all those things without which the thing itself would be unavailable). Where an error apparent on the face of the record is committed by a judicial or

quasi judicial authority in the discharge of its functions it must necessarily have the power to rectify that error and to deny that judicial authority this

right to undo the wrong will be self defeating. Such a rigidity of law, far from advancing the cause of justice will result in perpetration of injustice. It

cannot be said that merely because there are no express provisions in the rules framed under the Act empowering the authorities constituted under

the Act to review its order in appropriate cases such authorities have no such power to do justice or redress a wrong. The following observation of

Mahmood, J., in *Narasingha Dass v. Mungal Dube* 5 All. 163 F.B., is worthy of note :--

All Courts are not to act upon the principle that every procedure has to be taken as prohibited unless it is expressly provided for by the Code, but

on the converse principle that every procedure is to be understood as permissible till it is shown to be prohibited by law. As a matter of general

principle prohibitions cannot be presumed.

Though these observations have been made with reference to courts they apply in equal force to all judicial and quasi judicial tribunals which are

constituted to adjudicate upon valuable rights of citizens. I therefore, hold that the Rent Controllers and the Appellate Authorities under the Tamil

Nadu Buildings (Lease and Rent Control) Act have inherent power to review their own orders with a view to correcting patent or obvious

mistakes in order to advance the ends of justice and redress a wrong.

3. In the case on hand the Appellate Authority has directed the fair rent to be paid from the date of this application, for fixation of fair rent. But, as

per the aforesaid Bench decision, the fair rent is payable from the date of commencement of the original tenancy subject to the law of limitation.

The Appellate Authority has overlooked this decision and passed an erroneous order directing payment of the fair rent from the date of the

application. When this patent error has been brought to the notice of the Appellate Authority, it has exercised the powers of review and rectified

the mistake. The order of the Appellate Authority does not, therefore, suffer from

any infirmity. In the result, the revision fails and is dismissed. No costs.