

(1981) 10 MAD CK 0001
In the Madras High Court

M. Khasim Khaleali

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 29-10-1981

Acts Referred:

Citation : (1982) 1 MLJ 273

Hon'ble Judges : Singaravelu, J

Bench : Single Bench

Judgement

Singaravelu, J.—The landlord is the revision petitioner. The landlord filed an application u/s 4 of XVIII of 1960 for the fixation of fair rent in

respect of a non-residential building. The respondent-tenant is the State of Madras, represented by the Accommodation Controller.

2. The landlord in his petition wanted a rent of Rs. 32,500 to be fixed as the fair rent for the building. This application was resisted by the

respondent and after recording evidence the Rent Controller fixed the fair rent at Rs. 28,000 per month. Aggrieved by this order, both parties

preferred appeals, the landlord filing an appeal in H.R.A. No. 521 of 1978 and the tenant preferring an appeal in H. R.A. No. 483 of 1978.

Unfortunately, both appeals were lying before different Courts and this was not brought to the notice of the Appellate Authority, by either party.

Therefore, the two appeals were heard separately by different Authorities and judgments were rendered. In the appeal by the tenant in H.R.A. No.

483 of 1978 the fair rent was confirmed at Rs. 28,000 per month and consequently the appeal was dismissed on 5th December, 1978.

Subsequently, on 12th December, 1978, the appeal filed by the landlord was taken up by a different Judge and in that H.R.A. No. 521 of 1978

the appellate authority has passed the order thus : ""The appeal is accordingly allowed...Fair rent is fixed at Rs 21,943 per month"". This operative

portion of the order reducing the quantum is ununderstandable and is not in conformity with reason or propriety. Be that as it may, their are now

conflicting decisions with regard to the fair rent in respect of the same premises between the same parties.

3. As painted out already, the appellate authority in H.R.A. No. 483 of 1978 confirmed the finding of the Rent Controller and fixed the fair rent at

Rs. 28,000 per month. This has become final. While so, another appellate authority in H.R.A. No. 521 of 1978 has fixed the fair rent at Rs.

21,943 per month for the same premises and passed the order on 12th December, 1978, subsequent to the decision in H.R.A. No. 483 o! 1978.

These two orders are mutually contradictory and irreconcilable. This is also an act of impropriety and also illegality warranting interference of this

Court u/s 25 of Act XVIII of 1960.

4. The landlord was not satisfied with the quantum of rent fixed by the Rent Controller and therefore preferred an appeal. The Appellate Authority

could, either have dismissed the appeal or granted enhancement. In fact, the Appellate Authority has no other option under law, but curiously, it

has ""allowed the appeal"" by the landlord and reduced the fair rent, more so when the appeal by the tenant was already dismissed. This h clearly

illegal. When a landlord files an appeal on the ground that the quantum of fair rent fixed by the Rent Controller is low, the Appellate Authority can

only dismiss the appeal or "rant enhancement, but cannot reduce the amount, unless the tenant has also filed an appeal or cross appeal questioning

the quantum. The landlord should not be made worse off for having filed the appeal and he has been penalised in this case for preferring the

appeal.

5. Accordingly, it is ordered that the fair rent for the premises is fixed at Rs. 28,000 per month as already confirmed by the Appellate Authority in

H.R A. No. 483 of 1978. In this view of the matter, the order in H.R.A. No. 521 of 1978 is set aside and the Revision Petition is allowed and the

order of the Rent Controller is restored. Each party to bear his own costs.