

**(1995) 01 MAD CK 0021**  
**In the Madras High Court**

M.R. Easwaran

APPELLANT

Vs

C. Keppaiya Chettiar and Others

RESPONDENT

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**Date of Decision :** 27-01-1995

**Acts Referred:**

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 4

**Citation :** (1995) 2 MLJ 290

**Hon'ble Judges :** Srinivasan, J

**Bench :** Division Bench

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**Judgement**

Srinivasan, J.—Learned Counsel for the petitioner raised three objections to the fixation of fair rent by the Authorities below.

2. The first is that a single petition for fixation of fair rent is not maintainable in view of the fact that the respondents have purchased different

portions of the property under different sale deeds marked as Exs. A-9 to A-14. According to him, there should be six different petitions for

fixation of fair rent with regard to each of the portions. I am unable to accept this contention. Admittedly the tenancy was a single one. He is the

tenant of the entire building which bears only one door number and he is paying a sum of Rs. 425 for the entire building. By arrangement he is

paying to the father, who is the first respondent, and the other respondents are only daughters of the first respondent. The court below have placed

reliance on the judgment of this Court in D. Rukmani Ammal and Others Vs. V.K. Izudden, . Learned Counsel submits that the ruling does not

apply as the landlord in that case was the same person with regard to two door numbers. That does not make any difference as long there is only a

single lease. In this case, the tenancy is one and common and the building is the same. Hence, the view taken by the courts below that one petition

is maintainable is correct.

3. The second contention is that u/s 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, before fixing fair rent, the authority has to

consider the rent prevailing in the area with reference to buildings similarly situated. In this connection learned Counsel submits that Sections 4 and

5 of the Act should be read together. While Section 4 makes no mention whatever of the prevailing rent in the area of for a similar building in a

similar locality the proviso to Clause (1) of Section 5 refers to fair rent for a similar building in the same locality. That section itself applies only to a

case of enhancement or refixation of fair rent. If fair rent of a building has been fixed or re-fixed u/s 4 no further increase in such fair rent would be

permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense when his building is

then in the occupation of the tenant at his request. The proviso says that in all such cases, the increase shall not exceed the fair rent payable under

the Act for a similar building in the same locality with such addition improvement or alteration and it shall not be chargeable until such addition,

improvement or alteration has been completed. That proviso has no application whatever to the fixation of fair rent for the first time u/s 4.

Significantly, Section 4 does not make it one of the circumstances or factors to be taken into account by the Court before fixing fair rent.

4. Reliance is placed by learned Counsel on the judgment of a Bench of this Court in Rayala Corporation (Madras) v. Syed Bawker and Co.

Madras (1957) 1 M.L.J. 241. The case arose under the Madras Buildings (Lease and Rent Control) Act 25 of 1949. The language of Section 4

at that time was entirely different. The section provided that "circumstances of the case" have to be taken into account by the Rent Controller

before fixing the fair rent. Interpreting the expression "circumstances of the case", the Bench said that though there is no provision in the Act which

specifically provides for taking into consideration the prevailing rent of the building in the locality which had been constructed subsequent to 1 st

April, 1940, the expression "circumstances of the case" enables the Rent Controller to take into account the prevailing rates of rent of similar

buildings at the time of the application especially when there is no reliable evidence as to the rental which prevailed in 1939-40. That ruling will

have no application in this case as the language of Section 4 of the present Act is entirely different. In fact the Legislature has deliberately

introduced Section 4 for the purpose of making it clear that only factors which are referred to in the section have to be taken into account by the

Rent Controller for fixing fair rent.

5. The last contention of learned Counsel is that the existing annual rental value of each of the portions of the properties previously owned by the

concerned respondents is Rs. 1,080 and the Municipality has proposed to increase the annual rental value of each portion to Rs. 1,800 which is

being opposed by the respondents saying that it will be on the higher side. It is therefore, contended that when the respondents are opposing the

increase in the annual rental value to be fixed by the Municipality, they are not entitled to claim a higher fair rent before the authorities under the

Act. There is no merit whatever in this contention. The fixing of annual rental value by the Municipality is a matter between the owners of the

building and the Municipality, but the Rent Control Act contains specific guidelines with regard to fixation of fair rent. If fair rent is fixed in

accordance with the guidelines prescribed by the Act, no exception can be taken to it by referring to the enhancement or reduction of the annual

rental value by the Municipality under the Municipality Act.

6. On a perusal of the orders of the authorities below, I find that they have applied the principles of law correctly and they have taken into account

all the relevant factors for fixing the fair rent. There is no merit whatever in the revision. It is dismissed.