

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, TIRUPPUR.**

Present : Thiru.K.R.Kannan, B.A., B.L.,  
(J.O.CODE : TN01220)

Principal District Munsif, Tiruppur.  
Thursday the 15<sup>th</sup> day of February 2024.

**I.A.No.89/2023 in R.C.O.P.No.06/2014**

1. R.Kalaiselvi.
2. R.Vijayalakshmi.
3. T.Sakthi Karthika.
4. S.Senthil Arumugam.
5. S.Shanthosh  
( Both are represented by their Power of attorney Smt.S.Neelamani)
6. A.Subramaniam (Died).

... Petitioners/Landlords

***/Versus/***

K.M.Murugesan.

... Respondent/Tenant

This petition came before me on 07.02.2024 for the final hearing in the presence of Thiru.S.Dharmaraj, B.Sc., B.L., Advocate for Petitioners/Land Ladies & Landlords and Thiru.V.Muthushanmugasundaram, Advocate for Respondent, and after hearing both parties and on perusal of available records, this court passed the following:

**ORDER**

The petitioners filed this petition Under section 4 and 5 (3) of Tamil Nadu Building (Lease and Rent Controller) Act 1960, and also U/s.8 of Tamil Nadu Building (Lease and Rent Controller) Rules 1974, and asked this court to appoint an Advocate/Commissioner from Bar or any Association of Tiruppur

with help of the Assistant Executive Engineer of Public Works Department at Tiruppur for fixation of rent to the petition mentioned building.

**2. The averments stated in the affidavit are as follows :**

i) The 5<sup>th</sup> petitioner herein and the 5<sup>th</sup> petitioner in the main original rent control petition. The petitioner has filed this affidavit on behalf of him and also for the other petitioners. The petitioners has filed the main application against the respondent for fixation of fair rent and also to evict the respondent from the rent control building for willful failure and default of agreed rent.

ii) The petition mentioned property was leased to the respondent on 17.09.2001 for monthly rent of Rs.2,000/- for the 1<sup>st</sup> 10 years and for monthly rent of Rs.2,500/- for 2<sup>nd</sup> ten years and for monthly rent of Rs.3,500/- for 3<sup>rd</sup> 10 years and totally leased out for the period of 30 years. The fair rent of Rent of Rs.50,000/- has been prevailed in rented building near the petition mentioned properties. Hence, the petitioners have filed the main application for fixation of fair rent. From February 2012, the respondent has failed to pay rent.

iii) The petitioners have already filed application to appoint the Revenue Inspector of Tiruppur Municipal Corporation as the Commissioner for fixation of rent to the petition mentioned building. The said application has been dismissed. Hence, the petitioner has filed this application for appointment of court commissioner among the bar members with assistance of Tamil Nadu Government Public Works Department Engineer at Tiruppur.

iv) The earlier application to appoint revenue Inspector of Tiruppur Municipal Corporation as the Commissioner to fix the rent for the petition mentioned property, the said application has taken on file of this Hon'ble Court in I.A.No.30/2017 and was dismissed. Now, the petitioner came to know that the Advocate Court Commissioner, Public Works Department Assistant Executive Engineer at Tiruppur is the fit person to fix the fair rent of the petition mentioned property. Hence, the petitioner filed this petition and asked to allow the same as prayed for in the petition.

**3. The objections raised by the Respondent/Tenant in the counter are as follows :**

i) The petition is false and unsustainable both in law and on facts of the case. The petitioners are put to strict proof of the various allegations in the affidavit that are not admitted except those allegations that are specifically admitted herein.

ii) This respondent submits that the various allegations set out in the affidavit in paragraph 2 of the affidavit contrary to the allegations made in the counter statement filed by this respondent in the main application are denied as false and untenable. This respondent submits that considering the reliefs claimed in the main application and considering the fact that the enquiry in the main application has already been commenced by examination of P.W.1 on 22.11.2022 and Ex.P1 to Ex.P13 were also marked and this respondent completed the cross examination of P.W.1 even on 20.01.2023. Subsequently P.Ws 2 & 3 were examined and Ex.P14 to Ex.P16 were marked on 03.07.2023 and cross examined by the respondent also. Subsequently the petitioners have filed an application to recall the P.W.1 and the said witness was recalled and Ex.P18 was marked and this respondent have also cross examined the said witness even on 01.11.2023 and there after the application was posted on 08.11.2023, 10.11.2023, 22.11.2023 and 01.12.2023 as last chance with an observation that no further adjournment will be given. However, the petitioners have filed the present application on 01.12.2023 without any justification with false and untenable allegations to protract the proceedings endlessly.

iii) The allegations in paragraph 2 of the affidavit that the petitioners have filed the main application for fixation of fair rent is false and untenable. This respondent submits that in Paragraph 12 of the main application the petitioners have claimed the relief for fixation of the fair rent to the petition mentioned properties and also seeking direction to pay the alleged arrears of rent and to vacate the petition mentioned property and deliver possession and above all in paragraph 12(c) of the main petition has sought the relief of eviction on the

ground of willful default of payment of the rent and further reliefs as detailed in the said application. This respondent therefore submits that considering the reliefs claimed in the main application the petitioners have claimed mutually destructive reliefs claimed in the and as such the reliefs claimed in the main application cannot be granted at all. In these circumstances, the present application seeking appointment of a Commissioner to inspect the property with an assistance of Assistant Executive Engineer of Public Work Department to file the report to enable this Hon'ble Court to fix the fair rent to the petition mentioned property is totally false and unsustainable.

iv) It is true that the petitioners have filed an application in I.A.No.30/2017 before the commencement of the enquiry and the said application was dismissed on 11.08.2021 and the petitioners have not filed any revision or made any proper application in this regard. However, the petitioners after the commencement of the enquiry and after examination of P.W's 1 to 3 and moreover 2 years after the dismissal of the I.A.No.30/2017 have now come forward with the present application seeking the very same relief without any valid and justifiable reasons.

v) This respondent further submits that as already said the main application itself is not at all maintainable for claiming the mutually destructive reliefs and therefore the present application is not at all maintainable considering the present stage of the proceedings. This respondent further submits that the conduct of the petitioners in filing the present application with unjustifiable reasons demonstrates their callous and indifferent attitude and as such the present application is liable to be dismissed.

**4. Both side have not lead any evidence and no documents were marked.**

5. Now the Point for Consideration is whether this petition has to be allowed or not?

**6. Point for Consideration :**

i) The petitioners herein are the landlords in the main application and the respondent is the tenant in the petition mentioned property. The petitioner filed the main application u/sec 4, 5(1) and 10(2) (i) and 11 (i) of Tamil Nadu Lease and Rent Control Act, 1960. In the main application, the petitioners asked this court to fix the fair rent for the petition mentioned property at the rate of Rs.50,000/- and further asked the respondent to deposit the arrears of rent from 17.02.2012 to 16.5.2014 and further asked to evict the respondent from the petition mentioned property on the ground of willful default of rent.

ii) The arguments submitted by both counsels and the available records are perused. The petitioners are the landlords to the petition mentioned property is an admitted fact. It is true, the main application RCOP.No.06/2014 is in the stage of further examination of petitioners side evidence and the same is more then 7 years old. It is also true, the petitioners already filed an application for appointment of an advocate/commissioner with the help of Revenue Inspector of Tiruppur, Municipal Corporation to fix the rent for the petition mentioned property. The said application was taken on file as I.A.No.30/2017 and after enquiry the said petition was dismissed by this court on the ground as per Section 4 and 5(3) of Tamil Nadu Building (Lease and Rent Control) Act, to assess the building the court can consider only the value of the assessment given by the officials of Public Work Department. Since, the petitioner filed I.A.No.30/2017 to fix the rent with the help of Revenue of Inspector of Tiruppur, Municipal Corporation, to fix the rent the said petition was dismissed.

iii) It is also true, the petitioners have not filed any appeal against the order's passed by this court in I.A.No.30/2017. The above said facts, was also pleaded in the affidavit itself. Now, the petitioners asked this court to appoint an Advocate/Commissioner with the assistance the Assistant Executive Engineer of Public Work Department to visit the property for fixation of rent.

iv) The respondent in this application filed a petition Under Section 9 (3) of Tamil Nadu Building (Lease and Rent Control) Act, 1960 and asked this court to permit the respondent to deposit the rent from 17.02.2012 to 16.05.2014 and future rent monthly as Rs.2,500/- the said application was also pending along with RCOP.No.06/2014 on joint trial.

v) In the main application itself, the petitioners asked a relief of fixation of fair rent to the petition mentioned property as Rs.50,000// per month. On the other hand respondent filed RCOP No.12/2014 to permit the respondent to deposit the monthly rent to the petition mentioned property as Rs.2,500/- per month. So, considering all this aspects if the Advocate/Commissioner is appointed and the Advocate/Commissioner with the help of Assistant Executive Engineer of Public Work Department, Tiruppur visit the property and assess the value of the building, it will help this court to fix the fair rent to the petition mentioned property.

vi) Hence, in the interest of justice, and in order to fix the fair rent to the petition mentioned property, this court is inclined to allow this application. For the reasons stated in the affidavit, this court is hereby appoint Mr. P.M.Muhil Bala, Advocate (Junior of Advocate.S.Karthick ) as an Advocate/Commissioner for the petition mentioned purpose. The Advocate/Commissioner remuneration is fixed as Rs.7,500/-(Rupees Seven thousand five hundred only) and the same to be paid directly to the Advocate/Commissioner within a week. Since, the main application is more than 7 years old, the Advocate/Commissioner is directed to visit the petition mentioned property after giving due notice to both parties, along with the Assistant Executive Engineer Public Work Department, Tiruppur to assess the value of the petition mentioned property on or before 10.03.2024 and further directed to file his report on 18.03.2024 without fail. For commissioner report and plan call on 18.03.2024.

Dictated to the Steno-Typist, directly and typed by her in court computer and corrected and pronounced by me in the open court, on this the 15<sup>th</sup> day of February 2024.

Principal District Munsif,  
Tiruppur.

**LIST OF WITNESSES & DOCUMENTS**

**On the side of Petitioners Witnesses & Documents** :- NIL

**On the side of Respondent Witnesses & Documents** :- NIL

Principal District Munsif,  
Tiruppur.