

Dewa Properties Limited vs the General Manager

Dewa Properties Limited vs the General Manager

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Court : Kerala

Decided On : Mar-09-2022

Judge : Honourable Mr. Justice Anil K.Narendran,Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : RCRev./152/2021

Appellant : Dewa Properties Limited

Respondent : The General Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN & THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR WEDNESDAY, THE 9TH DAY OF MARCH 2022 / 18TH PHALGUNA, 1943 RCREV. NO. 152 OF 2021 AGAINST THE JUDGMENT DATED 24/08/2017 IN R.C.A.NO.18 OF 2020 OF THE RENT CONTROL APPELLATE AUTHORITY (ADDITIONAL DISTRICT JUDGE-V), THIRUVANANTHAPURAM, ARISING OUT OF THE

ORDER DATED 09/11/2020 IN R.C.P.NO.48 OF 2019 OF THE RENT

CONTROL COURT (ADDITIONAL MUNSIF-IV), THIRUVANANTHAPURAM
REVISION PETITIONER/RESPONDENT/PETITIONER: M/S.DEWA

PROPERTIES LIMITED ANNA SALAI, CHENNAI-600002, NOW REPRESENTED BY ITS DIRECTOR SHASHIKUMAR, AGED 56 YEARS, S/O. LATE MADHAVAN NAIR, 3, AVENUE ROAD, NUNGAMBAKKAM, CHENNAI-34. BY ADVS.SRI.PRAVEEN K. JOY SRI.ANILKUMAR P. SRI.E.S.SANEEJ SRI.M.P.UNNIKRISHNAN SRI.N.ABHILASH SMT.BEENA JOSEPH SMT.SREELEKHA. P SRI.DEEPU RAJAGOPAL SMT.SANDRA S.KUMAR SMT.SWAPNA C.P

RESPONDENTS/APPELLANTS/COUNTER PETITIONER: 1 THE GENERAL MANAGER CANARA BANK, JC ROAD, BANGALORE-560002. -2RCREV. NO. 152 OF 2021 2 THE MANAGER, CANARA BANK SPENCER JUNCTION, M G ROAD, THIRUVANANTHAPURAM-695001. BY ADVS.SRI.MURALI KRISHNAN SRI.ABRAHAM GEORGE JACOB SRI.AKSHAY R THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 09.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3RCREV. NO. 152 OF 2021

ORDER

Anil K. Narendran, J.

The petitioner, who is the landlord in R.C.P.No.48 of 2019 on the file of the Rent Control Court (Additional Munsiff-IV), Thiruvananthapuram, and the respondent in R.C.A.No.18 of 2020 on the file of the Rent Control Appellate Authority (Additional District Judge-V), Thiruvananthapuram, has filed this Rent Control Revision, invoking the provisions under Section 20 of the Kerala Buildings (Lease and Rent Control) Act, 1965, challenging the judgment dated 24.08.2018 of the Rent Control Appellate Authority in R.C.A.No.18 of 2020 whereby, the order of eviction granted by the Rent Control Court in R.C.P.No.48 of 2019 has been set aside and the matter remanded back to the Rent Control Court for adjudication of the disputes afresh.

2. On 09.11.2021, when this Rent Control Revision came up for admission, this Court admitted the matter on file and the respondents-tenants entered appearance through the learned counsel.

3. On 22.12.2021, when the matter came up for

-4RCREV. NO. 152 OF 2021 consideration, the learned counsel for the petitioner and also the learned counsel for the respondents submitted that the parties are ready to explore the possibility of settlement of the dispute by way of mediation. Therefore, this Court directed both parties to appear before the Nodal Officer, Ernakulam Mediation Centre, in the premises of this Court, on 07.01.2022 at 10.15 am. It was made clear that the petitioner and the respondents shall be represented by duly authorised officers. The matter was ordered to be listed on 20.01.2022 along with the report of the mediator.

4. On 20.01.2022, when the matter was taken up for consideration, it is reported by the learned counsel on both sides that the mediation talks are going on.

5. Heard the learned counsel for the petitioner- landlord and also the learned counsel for the respondents- tenants.

6. The learned counsel for the petitioner and also the

learned counsel for the respondents would submit that the parties have settled the disputes in mediation and have entered into a Memorandum of Mediation Settlement -5RCREV. NO. 152 OF 2021 Agreement dated 23.02.2022, executed under Section 89 of the Code of Civil Procedure, 1908, read with Rule 24 of the Civil Procedure (Alternative Dispute Resolution) Rules 2008. The said memorandum is placed on record along with the report of the Mediator.

7. It is also submitted by the learned counsel on both

sides that the entire arrears of rent has already been paid by the respondents-tenants in terms of the aforesaid settlement agreement. In such circumstances, this Rent Control Revision is disposed of, in terms of the Memorandum of Settlement Agreement dated 23.02.2022, which shall form part of this

order.

Sd/- ANIL K. NARENDRAN, JUDGE Sd/- P.G. AJITHKUMAR, JUDGE AV/11/3 - 6RCREV. NO. 152 OF 2021 APPENDIX OF RCREV. 152/2021 PETITIONER ANNEXURES Annexure 1 THE TRUE TYPED COPY OF THE ORDER DATED 28.2.2019 IN RCP 64/2009 OF THIS HON'BLE RENT CONTROL COURT, TRIVANDRUM. Annexure 2 THE TRUE TYPED COPY OF THE JUDGMENT IN RCA 11/2019 DATED 22.7.2020 OF THIS HON'BLE RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM. Annexure 3 THE TRUE TYPED COPY OF THE ORDER DATED 19.11.2020 IN RCREV.NO.183/2020 OF THIS HON'BLE COURT. Annexure 4 THE TRUE COPY OF THE RELEVANT PAGE OF

THE ORDER DATED 23.2.2021 IN SPECIAL LEAVE TO APPEAL (C) 1540/2021 OF HON'BLE SUPREME COURT OF INDIA.

Annexure 5 THE TRUE COPY OF THE ORDER RP 381/2021 IN RCREV.NO.183/2020 DATED 24.6.2021 OF THIS HON'BLE COURT. Annexure 6 THE TRUE COPY OF THE ORDER IN IA 3/2021 IN RP 381/2021 IN RCREV NO.183/2020 DATED 29.7.2021 OF THIS HON'BLE COURT. Annexure 7 THE TRUE COPY OF THE ORDER DATED 23.9.2021 IN RP 383/2021 OF THIS HON'BLE COURT. Annexure 8 THE TRUE COPY OF THE RELEVANT PAGE OF

THE ORDER IN RECORD OF PROCEEDING DATED 29.9.2021 IN PETITIONS FOR SPECIAL LEAVE TO APPEAL (C) NOS.14133-14134/2021 OF HON'BLE SUPREME COURT OF INDIA. 4J?; ERNAKULAM MEDIATION CENTRE (HJIGH Cbu FIT HALL) 2nd floor, above SBI, High Court buildincl, Ernakulam, Kochi -31.

Ph.0484-2 EMC/Reg. No a.\.i. Dated From To The Registrar Uudicial), r\ High Court of Kerala. Ernakulam Sir, Sub:-Mediation of referred cases -Reg. Ref:- Referral order in,.... A T5ii dated.I.\.t#theHon'bleHighcoJrtofKerala. The report of the Mediator in the matter along with the ir``,\qenclosuresisfurnishedherewithforinformationandnecessaryaction. Yours faithfully, r) Nodal Officer Ernakulam Mediation Centre / r- Encl: 1. Reportofthe Mediator, SettlementAgreement. 2.Copyofreferralorderdated.#S=\.\tk|..oftheHighCourtofKerala.

3. Copy of Petition. /

BEFORE THE HONOURABLE HIGH COURT OF KERALA. AT ERNAKULAM
caseNo. Qc AL~-v`AVo, ` Jd of ao a / J)ng,LJCLf94alfr4 : Appellants/petitionerr Vs'
4W-Chaafa42h4# : Respondents Avr@Mp^r . REPORT SUBMITTED BY
MEDIATOR Termso:seedt't::emd:nTaatttttearc::tdt'::'rewlthae
Datedthisthe33#ayofFtho7J2ra.]& Ernakula diation Centre BEFORE THE
HONOURABLE HIGH COURT OF KERALA AT E RNAKULAM RCRev No.
152/2021 BLFuvISI_ONPETITIONER/RESPONDENT/PETITIONER

M/s Dewa Properties Limited, Anna Salai, Chennai-600002, Now represented by
its Director Shashikumar, aged 56 years, S/o Late Madhavan Nair, 3, Aveniie
Road, Nungambakkam, Chennai-34. -Vs- BEip_ONI)ENTS/ APPIJLLANTS/
COUNTER PETITIONER

1. The General Manager, Canara Bank, JC Road, Bangalore-560002.
2. The Manager, Canara Bank, Spencer Junction, M G Road
Thiruvananthapuram-695001.

_M F,MORANDUM OF MEDIATION SIJTTEM_ENT AGREEMENT UNDF,R
SHCTION 89 OF TI-IE CODE CIVIL PROCEDURE REAP |VITI-I RULF 24 OF THE
CIVIL PROCEDURE (ALTERNATIVE DISPUTE RESOLUTION) RULES 200 I.
MEMORANDUM OF MEDIATION SETTLEMENT is executed before Mcdiutor on
this the 23rd day of February, 2022. It is submitted that the case RCRev 152/2021
was jointly referred to mediation for resolving the disputes between the parties, as
per Court direction and today the matter has been taken up before Mediator and in
the course of mediation, the parties have resolved their disputes and have agreed
for this settlement. i.a i=giv .,.` t;anapc~"onagef `~"~:``~:-i:~?i:v;::i:iTaT;Turam t;.,
Kerala Slale Mc`~;.;a. r. ^ni.li'3t'.on Centre ' J huL. u - uuZ` U3 i

2. The revision petitioner herein is the respondent in RCA 18/2020 on the

files of Rent Control Appellate Court (Additional District Court-V),
Thiruvananthapuram. The respondents were the appellants in the said

RCA. The said Rent Control Appeal was filed by the respondents/Appellants challenging the order of the Rent Controller, Thiruvananthapuram in RCP 48/2019. The revision petitioner is the landlord and the respondents are the tenants of the building having a total plinth area of 33,129.79 Sq. Feet as per lease deed no.

Canara Bank to M/s Dewa Properties Limited. Hence the terms of settlement are arrived at between those two parties, on the following: TERMS AND CONDITIONS ' a A. The matter has been settled between canara Bank and M/s Dewa Properties Limited.

8. The settlement is full and final settlement and has been arrived at through mediation only as per the calculation shown below.

A Rent' to be paid from 29.10.2009 to Rs.17,16,38,643/- 31.01.2022 Service tax fi.om 29.10.2009 - 0 8 30.06.2017 C GST from 29.10.2009-31.01.2022 Rs.3,08,94,956/- D TDS from 29.10.2009-31.01.2022 Rs.1,71,63,864/- E TDS from 01.01.2003-31.12.2007 toaid Rs.17,18.,786/- by the bank) a F Interest receivable from 29.10.2009 to Rs.1,93, 28,138/- 31.01.2022 G Refundable deposit Rs.1,57,64,850/- H Net amount payable (A+B+C-D-E-F-G) Rs. 14,85,57,961/- 1) Detailed calculation sheet as per agreed terms between the parti appended herewith as Annexure Al. `Hithapurarn C. The amount of Rs.14,85,57,961/-(will be paia within 7 days and any default would cany interest @12% per annum and also cost. D. The amount of Rs. 3,08,94,956/-will 6e paid by canara Bank as GST for the total settlement amount and this amount will be remitted by Canara Bank only. E. The entire Court fee paid by both the parties would be refunded to the party concerned. The parties have no objection in refund of the entire Court fee in all the cases. F. The total amount agreed for settlement is full and final amount agreed between the parties and the compromise decree can be passed for the said amount, by allowing RCRev 152/2021, together with 12% interest and cost, if the amounts are not paid in full, within 7 days from today. G. Inview of the aforesaid agreement entered between the parties, all n the RCRev 152/20,21 can be closed and allowed in the aforesaid agreement. In order to have a quietus of all the pending disputes and issues between the parties, it is hereby agreed and

decided that the parties hereto shall settle all the pending cases.

H. There is no compulsion or pressure to both the parties and both the parties have entered into this mediation agreement under free will and without any pressure. Fully understanding and agreeing to the above, the parties hereto have affixed their respective signatures hereunder, on the date first above written. tri gqu aiF/FatcA-BAN S affl

a c-" represented by its Director b* -- _-n_T= l..H Generalffiar-,THgLnk, rep by authorized a mdrJ 4 l ei , ={7r. i =rr,``=[ieTtTi TT TheMana`a8r;`r`Casti-alQan`B;J`aiitH,in rep by authorized officer .

VERIFICATION We, the parties al)ove named do hereby solemnly state and declare that what is contained in the above paragraphs are true and correct to the best of our knowledge, belief and information and we have understood the entire terms of this settlement agreement and personally read over it and agreed that the entire statement are correct to the best of our knowledge.

Dated this the 23rd day of February, 2022. `-.l..---:~::~---:-----`1:~.._ DEWA PROPERTIES LTD Director a roperties Limited, Anna Salai, Chennai-600002,

1. TheGeneralManager,

Canara Bank, JC Road, N()w represented by its Director Bangalore-560002, Ai.AAFJ!\ E Shashikumar, aged 56 years, rep by authorized oifetr" as ; S/o Late Madhavan Nair, 3, Avenue Road, Nungambakkam, rM ar`a9ei',r,fl,.n.irjc -a rfu ngur TT Hfro 5t=t,Fi ,`-h-{iF'JT~is: Chennai-34. The Manager, Canara Bafi.-k,3t ;{i&:i:i:=is3:`n: Spencer Junction, M G Roddi..L`. Thiruvananthapuram-695001, rep by authorized officer

Enclosure : Annexure A1-Spencer rent calculation from 29.10.2009 to 31.01.2022
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