

Rajammal Vs. the Chief Judge, Court of Small Causes and anr.

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Court : Chennai

Decided On : Aug-10-1949

Reported in : AIR1950Mad185

Judge : Rajamannar, C.J. and ;Krishnaswami Nayudu, J.

Acts : Madras Buildings (Lease and Control) Act, 1946 - Sections 4 and 6

Appeal No. : Civil Misc. Petn. No. 2478 of 1949

Appellant : Rajammal

Respondent : The Chief Judge, Court of Small Causes and anr.

Advocate for Def. : P. Bhoopathi, Adv.

Advocate for Pet/Ap. : G.T. Ramanujachariar, Adv.

Judgement :

ORDER

1. The only point for determination in this application for the issue of a writ of certiorari to quash the order of the learned Chief Judge of the Court of Small Causes passed in a House Rent Appeal is when a fair rent is fixed under Section 4 of the Act whether the landlord is entitled to such fair rent when it is in excess of the rent which was being paid before such fixation from the date of the commencement of the Act or only from the date of the application for fixing the fair

rent. There is no provision, it is admitted, in the Act itself directly dealing with this question. There is, however, provision in Section 6 (c) of the Act for refund or other adjustment of any sum paid by the tenant in excess of the fair rent whether before or after the commencement of the Act in respect of the use of the building after the commencement of the Act. But there is no similar provision giving right to the landlord to claim the difference between the fair rent fixed and the rent which was being paid before the fixing of such fair rent from any date anterior to the date of the filing of the application under Section 4. It was contended for the respondent that such a provision must be implied as a corollary to the provision in Section 6 (c) of the Act. It is a well-established principle of construction of statutes that the Court cannot supply omissions by implication and analogy, unless the existing provisions of a statute by necessary intendment so compel the Court. We are convinced that in this case there is nothing in Section 6 or in any other provision of the Act which compels us to hold that when on an application under Section 4 of the Act fair rent is fixed the landlord is entitled, when that rent is in excess of the rent which had been paid before the date of the application to demand the difference. The omission to make such a provision might well have been deliberate having regard to the avowed policy of the Act to safeguard the rights of tenants. Apart from any speculation as to the policy, it is clear that no retrospective operation can be given to the order fixing the fair rent unless such operation is expressly provided in the Act or should be necessarily implied. In this case the application for fixing the fair rent was filed only on 1st September 1947. The learned Judge, therefore, made an error in holding that he could direct the fair rent to come into operation from a date anterior to the date of the application, as in this case from 20th October 1916 when some improvements were effected to the premises. The order of the learned Judge is, therefore, quashed. The order of the Rent Controller will stand confirmed. There will be no order as to costs.