

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

In the matter of an application under article
140 of the constitution for a mandate in the
nature of Writ of Certiorari.

01. Mrs. A. Mayadunne

02. Mr. H.R. Mayadunne
Both of Central Photo
No.159, Colombo Road,
Gampaha.

Petitioners

C.A. (Writ) Application
No.627/10

Vs.

01. Mr. M.A.Q.M. Gazzli
Chairman, Rent Board of
Review No.10, Sri
Vipulasena Mawatha,
Colombo 10.
And 05 Others.

Respondents

01. K.V. Sirisena,
Chairman
Chairman, Rent Board of
Review No. 10, Sri
Vipulasena Mawatha,
Colombo 10.
And 06 Others

Added Respondents

BEFORE : S. SRISKANDARAJAH, J (P/CA)
COUNSEL : Palitha Kumarasinghe PC with Nuwan Deshapriya
for the Petitioner,
K.A.Bandara
for the 6th Respondents
Argued on : 07.06.2012 and 08.06.2012
Decided on : 20.12.2012

S.Sriskandarajah, J,

The 1st Petitioner is the wife of Mr. S.D. Mayadunne and the mother of the 2nd Petitioner. Mr. S.D. Mayadunne was the original tenant of the premises in question of Mr. D.E. Weerasinghe who was the father of the 6th Respondent. Upon the death of Mr. D.E. Weerasinghe, the Petitioners became the tenants of the premises and, upon the death of Mr. D.E. Weerasinghe, the 6th Respondent became the landlord of the said

premises. The Petitioners continued that a business of a photographic studio, was commenced in the said premises by Mr. S.D. Mayadunne under the name, style and firm of "Central Photo". The Petitioners submitted that they were paying rent until May 2008 at the rate of Rs.3,000/- per month to the 6th Respondent. In June, when the rent was sent by cheque, the 6th Respondent refused to accept the said cheque and returned the same to the Petitioners. In view of this the 2nd Petitioner requested the Rent Board to determine the amount of rent for the said premises. An inquiry was held on the 7th of January 2009, and at the said inquiry the 6th Respondent raised a preliminary objection that the premises is exempted from the Rent Act. The 6th Respondent took up the position that in 1968 the said premises came within the limits of the Gampaha Urban Council and its annual value in 1968 was Rs.2,182/-. The 6th Respondent produced the Assessment Register indicating the annual value of the said premises in 1968. The Petitioners in the said inquiry produced an extract of the Assessment Register signed by the Municipal Commissioner on 19/08/2008, which indicates that the annual value of the said premises in 1968 was Rs.1,908/-. The Rent Board of Gampaha, after an inquiry, made order dated 3rd June 1909 that the said premises comes under the purview of the Rent Act. The 6th Respondent appealed to the Rent Board of Review by appeal dated 9th June 2009 against the said order. The Rent Board of Review, after an inquiry and considering the written submissions filed by the relevant parties, made order dated 5th August 2010, that the said premises is an exempted premises. The Petitioners contended that the order of the Rent Board of Review is, ex facie, bad and acted contrary to the provisions of the Rent Act and, therefore, sought a Writ of Certiorari to quash the decision of the 1st to the 5th Respondents dated 5th August 2010.

The only issue that was raised in this application was whether the annual value of the premises exceeds Rs.2,000/- on 1st of January 1968. The 6th Respondent contended that the document marked P7 is self-explanatory, and the premises bearing Assessment 159 in the year 1968, the annual value was assessed at Rs.2,182/-. The 6th

Respondent contended that the Revenue Inspector and the Commissioner of the Municipal Council of Gampaha gave evidence to this effect. The 6th Respondent further contended, for the year 1967, the annual value is referred to in the said document P7 as Rs.1,908/- for premises No.159, and in the said document it had been mentioned that the assessment tax rate is 10% out of the annual assessment value. Accordingly, the 10% out of the annual value of Rs.1,908/- which is equivalent to Rs.190.80 was taken out, but it is calculated for the 4 quarters; i.e., for the whole of year of 1967, the rate comes exactly to Rs.47.70 for a quarter. As this figure is not disputed, the annual value of the whole year of 1967, from 1st January to 31st December is Rs.2,182/-.

The Rent Board, and the Rent Board of Review has arrived at a decision on the documents and evidence placed before it, and the written submissions tendered by both parties. The Rent Board of Review has come to the finding that the annual value of the premises No.159 was Rs.2,182/- for the year 1968. As this is a question of fact, and the relevant authority that can determine this question of fact is the Rent Board of Review. This Court cannot go into the question of fact in these circumstances, I hold that the Petitioners' challenge to the said decision has no merit and hence this Court, dismisses this application without cost.

President of the Court of Appeal