IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.K.MISRA
and
THE HONOURABLE MRS.JUSTICE CHITRA VENKATARAMAN

W.P.Nos.16576 of 1991, 2550, 4421, 4422, of 1999, 7134 and 20910 of 2000, 14525 of 2001, 43116 of 2002, 3399 of 2004 and 7696 of 2005 and C.R.P.No.1662 of 2005

1. T.V. Angappan
2. T.V. Subramanian ... Petitioners in W.P.No.16576 of 1991 and W.P.No.4421, 4422 of 1999

1. Shabbir Hussain
2. Sajjed Hussain
3. Abbasbhoy
4. HajiraBai
5. Jami Bai
6. Bilkis Bai

Co-oweners having Common name as
A. Nazarally & Sons Estate,
Chennai- 600 001 .... Petitioners in W.P.NO.2550 of 1999

R. Ramalingam ... Petitioner in W.P.No.7134 of 2000

A.Y. Nithyanandha ... Petitioner in W.P.No.20910 of 2000

C.S. Mani
Heriditary Trustee of a
Private Family Temple
Arulmigu Arasadi Karpaga
Vinayagar Temple
No.138 Big Street,
Triplicane,
Madras- 600 005. ... Petitioner in W.P.No.14525 of 2001

A.C. Mohan ... Petitioner in W.P.No.43116 of 2002

1. Badruddin Mohamedally
2. Mohammed Badruddin
3. Khujam Badruddin
4. Hyder Badruddin

5. Quaresh Badruddin
6. Mariam Badruddin
7. Munira . S
1,6 and 7 rep by P.O.A. Hyder
Badruddin 4th petitioner

8. Yasmin S. Lehri
9. Gulnar Fakruddin
10. Fatema Tayebally
9 & 10 rep by P.O.A
Yasmin S. Lehri 8th Petitioner
all are residing at No.158
Lingi Chetty Street,
Chennai- 600 001. ... Petitioners in W.P.No.3399 of 2004

Abdul Razak Arif
rep by Power of Attorney
Mrs. R. Ramadevi
M-3, Agathiyar Nagar,
Villivakkam, Chennai-49 ... Petitioner in W.P.No.7696 of 2005

Vs

1. The State of Tamilnadu
rep. by the Secretary to Government
Education Department
Fort St. George
Madras-600 009.

2. The Chief Engineer (Buildings)
Public Works Department
Chepauk, Madras-600 005.

3. The Revenue Divisional Officer and
Accommodation Controller
State Bank Road
Coimbatore-641 018.

4. The Divisional Engineer (Buildings)
Public Works Department
Big Bazaar Street
Coimbatore-641 001.

5. The Director
N.C.C.Directorate
(Tamilnadu and Pondicherry)
Fort St.George, Madras-600 009.

6. The Officer Commending
4(TN) Batalian N.C.C.
No.3, Race Course Road
Coimbatore-641 018. .. Respondents in W.P.16576 of 1991 and W.P.No.4421 and 4422 of 1999

1. Government of Tamilnadu
rep by Secretary, Law Department,
Fort St. George, Chennai-9.

2. The X Rent Controller,
Small Causes Court Madras
High Court Compound,
Chennai-104.

3. K.J. Bastian & Co.,
23 Vanniar Street,
Chennai-1. ... Respondents in W.P.No.2550 of 1999

1. The State of Tamilnadu
represented by its
Chief Secretary,
Fort St. George,
Chennai-9.

2. The XIIth Judge,
Court of Small Causes,
Chennai- 600 001.

3. Dr. N. Krishnamurthy Rao
No.108, Bells Road,
Triplicane,
Chennai- 600 005. ... Respondents in W.P.No.7134 of 2000

1. The Government of Tamilnadu
rep by Secretary to Government,
Law Department, Fort St. George,
Chennai-9.

2. National Textiles Corporation (TN & P)
rep by its Branch Manager,
N.T.C. show room, Adyar,
Chennai-20 ... Respondents in W.P.No.20910 of 2000

1.State of Tamil Nadu
rep. by its Secretary to Government

Law Department, Fort St. George,
Madras -9.

2.Mrs. S.Saroja

3.Mr.S.Chandrasekaran

4.Mrs. S.Chandralekha ..Respondents in
WP No.14525 of 2001

(Respondents 2 to 4 residing at
22, Big St. Triplicane Madras 5)

1.The State of Tamil Nadu rep. by
The Secretary,
Law Department, Fort St. George,
Chenai 600 009. ..Respondent in
WP No.43116/2002

1.Governemnt of Tamil Nadu, rep.by
Secretary, Law Department,
Fort St. George, Chennai-9

2.VIII Judge,
Small Causes Court Chennai-104
Appellate Authority under Act,
18 of 1960, High Court Compound,
Chennai 600 104

3.M/s. Unsiversal Pipe Distributors,
No.51, Sembudoss Street, Chennai -1.
..Respondents in WP 3399 of 2004

1.The Secretary to Government
Housing and Urban Development
Department, Secretariat,
Chennai 600 009.

2.The Secretary to Government
Law Department, Secretariat,
Chennai 600 009. ..Respondents in WP 7696 of 2005.

PRAYER: W.P.No.16576 of 1991 is filed under Article 226 of the Constitution of India for the issue of a writ of mandamus directing respondents-2 to 4 to implement G.O.Ms.No.753, Public Works Department dated 7.4.1984 in respect of the petitioner's land and building

bearing Door No.3, Race Course Road, Coimbatore, and comprised in Old T.S.No.636/2-A New T.S.No.1/1426 and 1/1426 Pt.BCE of Coimbatore Town and continue to do the same once in three years in future and consequently direct respondents-5 and 6 to pay the reasonable rent to be fixed by respondents-2 to 4 to the petitioners.

W.P.No.2550 of 1998 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring the whole of sub section (1) of Section 5 along with I proviso thereto, of the Tamil Nadu Buildings (Lease and Rent Control) Act (Act 18 of 1960) as amended by Act 23 of 1973 and 1 of 1980 as ultra vires the Constitution of India and to strike down the same insofar as the petitioners are concerned.

W.P.No.4421 of 1999 is filed under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus calling for the records relating to C.No.(RT) 2043 PWD dated 15.10.1987 and to quash the same and direct the respondents to fix fair rent to the building once in three years as per G.O.Ms.No.753/PWD dated 7.4.1984.

W.P.No.4422 of 1999 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring Section 5(1) of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960 as invalid in law and unconstitutional.

W.P.No.7134 of 2000 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring Section 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, as amended by Act 23 of 1973 and Act 1 of 1980 as null and void and consequentially to strike down the said provision as ultra vires the Constitution of India so far as the petitioner is concerned.

W.P.No.20910 of 2000 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring sub section (1) of Section 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act as ultra vires the Constitution of India and to strike down the same as unconstitutional and further set aside the order dated 28.4.2000 passed by the XV Judge, Small Causes Court, Madras in R.C.O.P.No.1871 of 1996 and remand the said case for fresh disposal in accordance with Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act of 1960.

W.P.No.14525 of 2001 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring sub section (1) of Section 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as amended by Tamil Nadu Act 23/73 and 1/80 as invalid and void and of no legal effect as being arbitrary and in contravention of Article 14 of the Constitution of India insofar as the petitioner is concerned.

W.P.No.43116 of 2002 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring Sections 4 and 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by Act 23 of 1973 as unconstitutional and violative of Article 300-A of the Constitution of India and discriminatory.

W.P.No.3399 of 2004 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration declaring sub section (1) of Section 5 along with 1 proviso thereto, of the Tamil Nadu Buildings (Lease and Rent Control) Act, (Act 18 of 1960) as amended by Act 23 of 1973 and 1 of 1980 as ultra vires the Constitution of India and to strike down the same insofar as the petitioners are concerned.

W.P.No.7696 of 2005 is filed under Article 226 of the Constitution of India for the issue of a writ of Declaration, declaring the provisions of Sections 4 and 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as unconstitutional, unjust, unreasonable and violative of constitutional rights to hold the property.

C.R.P.No.1662 of 2005 is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), Act as amended, against the decree and judgment dated 6.1.2005 made in R.C.A.No.1611 of 2003 on the file of the Rent Control Appellate Authority (VIII Judge, Court of Small Causes, Chennai), confirming the order dated 12.12.2003 made in R.C.O.P.No.161 of 2001 on the file of the Rent Controller (XVI Judge, Court of Small Causes, Chennai).

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For petitioner in W.P.No.16576 of 1991 and 4421 & 4422 of 1999 : Mr.K.V.Rajan

For petitioner in W.P.Nos.2550 of 1999 and 3399 of 2004 : Mr.Sandeep Shah for M/s.Shah & Shah

For petitioner in W.P.No.7134 of 2000: : Mr.K.Bijai Sunder

For petitioner in W.P.No.20910 of 2000 : Mr.S.J.Jagadev

For petitioner in W.P.No.14525 of 2001 : Mr.S.Rajendra Kumar

For petitioner in W.P.No.43116 of 2002 : Mr.R.Sundararajan

For petitioner in C.R.P.NPD No.1662 of 2005 and W.P.No.7696 of 2005 : Mrs.G.Devi

For 1st respondent in W.P.No.2550 of 1999, 7134 & 20910 of 2000 and 14525 of 2001/respondents in W.P.Nos.16576 of 1991 and WP No. 3399 of 2004 4421 & 4422 of 1999 and 43116 of 2002, 7696 of 2005 : Mr.S.Gomathinayagam Special Government Pleader

For 3rd respondent in W.P.No.2550 of 1999 : Mr.Sanjay Mohan Senior Advocate for M/s.S.Ramasubramaniam & Associates

For 3rd Respondent in WP No. 3399 of 2000 : Mr. S. Vijayaraghavan

For 3rd respondent in W.P.No.7134 of 2000 : Mr.T.S.Ramaswamy

For respondents-2 to 4 in W.P.No. 14525 of 2001 : Mr.G.Jeremiah

For respodents 2 in W.P.No.20910 of 2000 : Mr.K.V. Sundararajan

ORDER

The Tamil Nadu Buildings (Lease and Rent Control Act), 1960, as amended by Act 23 of 1973 and by Act 1 of 1980, as its name suggests, is a legislation to regulate letting of residential and non-residential buildings. This includes regularising the rents by fixing a fair rent and prevention of unreasonable eviction of tenants therefrom. The present Act has its forerunner in the Madras House Rent Control Order, 1941, and the Madras Godown Rent Control Order, 1942, issued under the Defence of India Rules during the second world war. They were reissued subsequently with slight changes in 1945 to be replaced by the Madras Buildings (Lease and Rent Control Act), 1946.

2. While enacting the 1946 Act, the statement of the objects and reasons stated therein that the conditions which compelled the passing of the Madras House Rent Control Order, 1941, and the Madras Godown Rent Control Order, 1942, had not ceased and anyway improved and "is not likely to improve for sometime to come". Hence, it was necessary to continue control of rent and eviction till such time as the situation improved. It also stated that provision had been made for increase of rents above the rates prevailing before 1st April 1940 with a view to prevent hardship to landlords.

3. This Act was subsequently replaced by the Madras Buildings (Lease and Rent Control) Act, 1949, containing similar provisions, to be replaced ultimately by the 1960 Act. The significant changes introduced in all these enactments related to the concept on the fixation of fair rent. Fixation of fair rent under the 1942 and 1949 Acts was related to rents prevailing in April, 1940 and allowed a fixed percentage of increase from 8 1/3% to 50%, and for those buildings constructed after 1st April 1940, the increase was from 37½% and 75%.

4. The 1960 Act, however, replaced the 1949 Act to have a new scheme of its own. It provided for a fixation of fair rent - a return on the basis of cost of construction, amenities provided and the cost of the land at certain percentage. It also provided for increase in rent depending on its locational advantages. In the decision reported in (1974) 1 SCC 424 (RAVAL & CO. Vs. K.G.RAMACHANDRAN), the Apex Court held that a perusal of the provisions showed that the legislature had applied its mind to the problem of housing and control of rents and provided a scheme of its own. "It did not proceed on the basis that the legislation regarding rent control was only for the benefit of the tenants. It wanted to be fair both to the landlord as well as the tenant." Thus the Rent Control Act is a piece of beneficial legislation that the rights of the landlord as well as that of the tenants are protected. A balance was struck within the rights of the landlord and the rights of the tenant.

5. Section 4 of the 1960 Act relating to fixation of fair rent was substituted by Section 6 of the Amending Act 23 of 1973. This concept of fair rent as per the amendment is determined on "a percentage on the" gross return on the total cost of the buildings. The basis of working of such return is guided by the provisions of Section 4.

6. Under the present provision, the fair rent for any residential building shall be 9% gross return on the total cost of such building and 12% in the case of non-residential building. The market value of

the site in which the building is constructed, cost of construction, cost of providing of amenities specified in the Schedule are to be worked out in accordance with the guidelines provided under the Section. The Section provides that while calculating the market value of the site, the Controller shall take into account only that portion of the site on which the building is constructed and a portion upto 50% thereof of the vacant land appurtenant to such building, the excess portion of the vacant land treated as an amenity. Section 4 also contained a proviso putting a ceiling on the amenities to be valued at 15% in the case of residential building and in the case of non-residential building, 25% of the cost of the site in which the building is constructed. The amenities that go for valuation is given under Schedule-I. The cost of construction is to be calculated at the rates adopted for purposes of estimation by the Public Works Department of the Government public area concerned. It also permitted elasticity for the Controller to allow or disallow an amount not exceeding 30% of the cost of construction, depending on the nature of construction, apart from deducting depreciation as calculated at the rates specified in Schedule-II.

7. For the purpose of considering the contentions in these writ petitions, we need to draw our attention to Section 4, Section 5 and Section 6. These provisions deal with fixation of fair rent. While Section 4 prescribes the methodology on the fixation of fair rent, Section 5 states that the fair rent fixed would not be subjected to further increase except under stated circumstances. Section 5 states that at any time subsequent to the determination of fair rent by the Rent Controller, if some addition, improvement or alteration is carried out at the landlord's expense and at the request of the tenant, the landlord could go for re-fixation. The re-fixation shall be comparable to the fair rent payable for a similar building in the same locality with such addition, improvement or alteration. While reserving such a right for the landlord, the Act is careful enough to take care of the interest of the tenant in that, where there is a decrease, diminution in the accommodation or amenities provided after the fixation of fair rent, a tenant can approach the Rent Controller for a re-fixation by a reduction in the fair rent. It may be noted at once the re-fixation of fair rent is related to the amenities provided, added or improved and certainly not on account of the effect of market forces on land value. The Act (Section 5 (3)) also reserved the right for those landlords or tenants to have the fair rent fixed under this amended provision, if in case, the fair rent was fixed before the date of commencement of this Amending Act, 1973 Section 5 (3). The Act prohibits entertaining a second petition for revision of fair rent except on the grounds stated in the statute.

8. Section 6 enables the landlord to recoup excess tax payable on

the property from the tenants. The Section comes to the rescue of the landlord where there is an increase of taxes, to be collected from the tenant. It must be noted that the increase in the taxes is not relatable to increase of rent in respect of the building. Where the amount of taxes payable for any half year commencing on the 1st April 1950 or any later date exceeds the taxes payable for the half year ending 30th September 1946 or for the first complete half year after the date on which the building was first let, whichever is later, the landlord is entitled to claim such excess from the tenant in addition to the rent payable for the building under this Act.

9. In the decision reported in (1987) 1 MLJ 385, at 386 (SHA DHANRAJ CHUNILAL Vs. VEDACHALAM CHETTIAR), this Court clearly held that in view of the rigid terms of Section 5, there is no scope for entertaining a second petition for revision of fair rent on grounds of equity and good conscience. The economic changes make no impact on the fair rent fixed under this provision, except to the exception of cases given in sub section (1) under stated circumstances or under sub section (3) where the fair rent was fixed even prior to the introduction of the amendment under the Amending Act, 1973.

10. In the context of the restricted avenues open to a landlord to have the fair rent fixed and considering the provision of Section 5 (3), disputes are raised before this Court challenging the provisions of this Act as arbitrary and hence, violative of Article 14 of the Constitution of India. The challenge made are to Section 4 and Section 5. Writ petitions herein are W.P.Nos.16576 of 1991, 2550 of 1999, 4421 and 4422 of 1999, 7134 of 2000, 20910 of 2000, 20912 of 2000, 43116 of 2002, 3399 of 2004, 3285 of 2005, and 7696 of 2005.

11. The facts in each of these cases are as follows:
W.P.No.2550 of 1999:

The writ petitioners herein are the owners of the property at Chennai-1 in occupation of the third respondent. The total extent of the tenanted property is of 2500 sq.ft. (2 godowns each measuring 1250 sq.ft.) 1600 sq.ft. for loading and unloading activities. The original rent of Rs.200/- was re-fixed at 946/-, the appellate Court reduced it to Rs.788/- and confirmed by this Court under orders in the Civil Revision Petition dated 17.11.1981 with effect from 24.2.1976. The said fair rent was fixed under the amended Act 23 of 1973. The grievance of the petitioners herein is that the revised rent of 1976 remains as it is even today since fair rent fixed is relatable to the date when the landlord or the tenant chooses to file the application under the 1973 Act. Confronted by the statutory restriction in Sections 4 and 5, the petitioners challenge the arbitrariness in these provisions as violative of Article 14 inasmuch as fixation of fair rent varies from time to time, tenant to tenant and from landlord to

landlord. The petitioners submit that when the Act has prohibited a second look on the fair rent fixed, it creates a different kind of class among the landlord and the landlord on the one hand and the tenant and tenant on the other hand, which has no relevance to the object of the Act or to the nexus to the policy underlying the enactment, namely, a reasonable return to the landlord. The petitioners submit that similarly situated buildings at the same place have different rent fixation depending on the date on which the landlord chooses to file the application for fair rent fixation. This classification, according to the petitioners, have no absolute nexus or relevance to the object of the Act. The petitioners also submit that Section 5 is constitutionally invalid insofar as it had lost sight of the value of the property undergoing change in tune with the circumstances and progress in a given urban area. The petitioners also cite the example of the provisions of the Andhra Pradesh Act, where there are provisions exempting new buildings from the provisions of the Act without any restriction and for all times to come. The Supreme Court struck down the same as violative of Article 14 of the Constitution of India. The petitioners submit that the Tamil Nadu Act contains a provision which attaches permanency to the fair rent fixed under the 1973 Act, hence violative of Article 14. The petitioners also referred to the case of RATTAN ARYA V. STATE OF TAMIL NADU reported in (1986) 3 SCC 385, wherein, the Apex Court struck down the provisions under Section 30(2) which denied benefit to the residential tenants where the rent exceeded Rs.400/-. The petitioners placed reliance on this decision in support of their contention that the classification was unreasonable and what was constitutionally valid and good cannot be said to be so in 1986 when the Supreme Court had occasion review the matter. The petitioners further submit that the legislature cannot overlook the fact of changes in the facilities surrounding the building which had gone for fixation of fair rent and hence, the provision which puts an embargo in total neglect of the changed infrastructural facilities, is bad in law. The petitioners further submit that periodical revision is necessary to see that the tenants are not conferred with a disproportionate benefit and the social legislation like the Rent Control Act ought to take note of the changed circumstances and the petitioners submits that where the Government had taken remedial measures as in the case of wages and salaries, the same is lost sight of while providing for increase in rent.

12. Referring to Section 5, the petitioners referred to Section 5 (1) as an objectionable portion which reads "no further increase in such fair rent should be permissible except in cases where some additions, improvements or alterations have been carried out at the landlord's expenses and if the building is then in occupation of the tenant at his request." According to the petitioners, if the above

objectionable portion is struck down, the first proviso to Section 5 (1) becomes unworkable. Hence, the entire Section 5(1) with the first proviso deserved to be struck down as constitutionally invalid, it being violative of Article 14 of the Constitution of India.

W.P.Nos.4421 and 4422 of 1999 and 16576 of 1991:

13. These writ petitions concern with leasing of property to Government Departments. The petitioners herein state that the Government, as per the order dated G.O.No.753, Public Works Department, dated 7.4.1984, directed the Chief Engineer (Buildings), Public Works Department, Chepauk, Chennai, to advise the officers of the Public Works Department to fix a reasonable rent for the buildings taken on lease by the Government Departments once in three years. The fair rent for the said property was fixed as early as 6.12.1985, taking note of the value of the land and building as on 15.9.1980. It is stated that taking into consideration the Government guideline, the value of the said land and building as on the date of filing the writ petitions was to the tune of Rs.1,92,84,180/-. The fair rent fixed taking the value of the property at Rs.6,86,146/- was at Rs.6,000/-. The petitioners had preferred W.P.No. 16576 of 1991 for a writ of Mandamus to direct the second to fourth respondents namely, Chief Engineer, Public Works Department, Revenue Divisional Officer, Accommodation Controller, Coimbatore, Divisional Engineer (Buildings), Public Works Department, Coimbatore, to implement the Government Order dated 7.4.1984 and to continue to do so once in three years and to consequently direct respondents-5 and 6 to pay a reasonable rent as fixed by the respondents. The petitioners state that the writ petition is still pending before this Court.

W.P.No.7134 of 2000:

14. As far as W.P.No.7134 of 2000 is concerned, the petitioner in this case is the owner of the premises in which the first floor is let out to a Doctor to run his eye clinic. He was charging a monthly rental of Rs.300/- since 1973. In the year 1982, he filed a petition for fixation of fair rent. The fair rent was fixed by the Rent Controller by April, 1983, fixing the fair rent at Rs.392/-. It is stated that after much pursuasion, the petitioner convinced the tenant, the third respondent in the writ petition, for an enhanced rent, and it is stated that at present, Rs.1,000/- is paid as rent. The petitioner contends herein that the property tax had been revised twice and he was paying half yearly tax of Rs.1,285.35 from the year 1983; thereafter from 1993, at Rs.2,173/-. It is now stated that he is paying a property tax of Rs.4,652/-. The petitioner states that the approved valuer's valuation for monthly rent fixed for year 1999 based on the formula fixed under the Act, was arrived at Rs.7,725.29. The petitioner filed a R.C.O.P. for fixation of fair rent and the same

is now pending. The tenant, third respondent, has filed the counter affidavit that the monthly fair rent would be approximately Rs.2,213/-. Having regard to the bar under the provisions of the Act, the petitioner had sought for a writ remedy to declare Section 5 of the Act as amended by Act 23 of 1972 and Act 1 of 1980 as void and hence, to strike down the same as ultra vires the Constitution. The grounds taken therein is, Section 5 had no reasonable relation to the object sought to be achieved or for the purpose of the said legislation. The petitioner states that there is an irrational discrimination between the landlord who had filed petition for fixation of fair rent before 1973 Amendment Act and the one who files after the Amendment Act of 1973. Pointing out to the steep increase in the market price of the properties in Chennai, the petitioner submits that the statutory bar under Section 5 in applying for re-fixing the fair rent is discriminatory.

W.P.No.3399 of 2004:

15. W.P.No.3399 of 2004 is filed by the owners of the premises in Angappa Naicken Street, Chennai. It is stated that the petitioner filed R.C.O.P.No.341 of 2000 for fixation of fair rent. However, taking note of the fact that the petitioner had already preferred a similar petition on earlier occasion in H.R.C.No.4549 of 1991, the tenant, third respondent herein, resisted this application as barred in view of Section 5. The Rent Controller dismissed the same, and it is stated that by way of abundant caution, he had filed an appeal and the same is numbered as R.C.A.No.868 of 2004, now pending on the file of the VII Judge, Small Causes Court, Chennai. The challenge to the provisions are on similar grounds as in other writ petitions. Pointing out to the arbitrariness and discriminatory treatment of the provisions creating different classes among the landlords and the tenants for all times to come, the petitioner has sought for a declaration that Section 5(1) read with proviso of the Act is ultra vires the Constitution and hence, to strike down the provision.

W.P.No.20910 of 2000:

16. In W.P.No.20910 of 2000, the petitioner is an absolute owner of the property, the ground floor portion of which was leased out to the second respondent for non-residential purpose in the year 1974 on a monthly rent of Rs.1,173/-. It is stated that he filed a petition for fixation of fair rent in the year 1983 and that since 1983, he has been paying a rent of 1,950/-. It is stated that the property is situated in a commercial area. Hence, the petitioner filed a second fair rent petition in 1995. However, the same was dismissed as not maintainable in view of Section 4 of the Act. The petitioner submitted that the said legal position causes irreparable loss, hardship and injustice. Questioning the arbitrariness in the classification evidenced in the operation of the provisions of the

Act, the petitioner has sought for a writ of declaration to declare Section 5(1) as ultra vires and to set aside the order dated 28.4.2000 passed by the XV Judge, Small Causes Court, in R.C.O.P.No.1871 of 1996.

W.P.No.7696 of 2005:

17. In W.P.No.7696 of 2005, the petitioner as the owner of the property filed an R.C.O.P. for fixation of fair rent in respect of the property situated at Anna Salai. By order dated 11.12.1986 in C.R.P.No.3787 of 1986, this Court fixed the fair rent at Rs.12,500/-, on a compromise made between the parties. It is stated that the compromise was reached in respect of a property belonging to a minor without obtaining the permission of the Court. Consequently, a fresh revision was filed and the same was dismissed in view of Sections 4 and 5 of the Rent Control Act. The appeal preferred also failed. Consequently, the writ petition has been preferred challenging the provisions, apart from filing a revision before this Court. The petitioner states that considering the guideline value, the monthly rent fixed is unfair and unreasonable and that property tax had been revised, however, without a corresponding increase in the rent. It is stated that the provisions contained in Sections 4 and 5 are arbitrary and unjust that the fair rent could not be a specific figure unaltered and the Rent Control Act was silent regarding changed circumstances. Consequently, the prayer is made to declare the provisions as unconstitutional.

W.P.No.14525 of 2001:

18. W.P.No.14525 of 2001 is filed by the hereditary trustee of the private family temple, who is the owner of the property leased out to him. The tenancy was on a monthly rent of Rs.160/- from the year 1974. By order dated 25.11.1986, the Rent Controller fixed the fair rent at Rs.419/-. The respondents herein are the legal representatives of the original owner who died. This Court, by order dated 11.2.1997 in C.R.P.No.3462 of 1996, fixed the fair rent at Rs.1,000/- as on the date of the application. It is stated that the total extent of the land is 1789 sq.ft. and the total built-up area on the ground floor and first floor is 2060 sq.ft. It is stated that the Corporation had proposed to revise the property tax on the basis of the fair rent of Rs.6,610.61 per month, calculating the same as per the provisions of the Rent Control Act and the tax was proposed to be raised from Rs.802/- to Rs.2,186/- per half year. Faced with this, the petitioner called upon the respondents to pay a rent of Rs.3,000/- which they refused. This necessitated a fresh filing of a petition on 20.4.2000 for fixation of fair rent. The petitioner states that having regard to the provisions of Sections 4 and 5, this Court had already determined the fair rent earlier. This petition has been preferred taking note of the objection of the respondent herein. The

grounds of attack in these petitions are similar to the ones made in the other petitions.

19. A counter affidavit has been filed contending that the said Government Order was not applicable to the buildings taken on lease under the Tamil Nadu Buildings (Lease and Rent Control) Act, in view of G.O.No.2043, Public Works Department, dated 15.10.1987. Apart from this, the respondents also deny the allegations stated therein and pray for dismissal of the writ petition.

20. Learned counsel appearing for the writ petitioner in W.P.No.3399 of 2004, submitted that the prohibition contained in Section 5 creates a permanent class of tenant and landlord thereby conferring permanent benefit to the tenant. He further submitted that when there had been a considerable increase in the value of the property, there is no corresponding revision in the rent. He further submitted that the fixation of fair rent is based on gross return per annum on the total cost of the building which shall consist of the market value of the site and the cost of construction of the building. The prohibition contained in Section 5 for a second petition for a revision of the fair rent commensurate with the concept in Section 4 is arbitrary and violative of Article 14. Learned counsel further submitted that when the property tax gets revised on the market value concept, the rent which is based on a return without any amendment is discriminatory and arbitrary. learned counsel also brought to the attention of the Court similar provisions in the Andhra Pradesh Act. In this connection, learned counsel placed reliance on the decision in AIR 1984 S.C. 121 (MOTOR GENERAL TRADERS Vs. STATE OF A.P.), AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA), 1995 (2) KLJ 555:1995 (2) KLT 848 (ISSAC NINAN Vs. STATE OF KERALA) affirmed in (2002) 10 SCC 180 (K.N.RAGHAVAN Vs. HABEEB MOAHMMED AND OTHERS). Learned counsel also placed reliance on the decision of this Court in (2002) 1 MLJ 568 (KETHMUL Vs. HUSAINI BEGUM) wherein, the need for amending these provisions was emphasised by this Court.

21. Mr.Jagadev, appearing for the petitioner in W.P.No.20910 of 2000, submitted that the fair rent was fixed as early as 1983, but after 12 years, the second petition was filed which was dismissed. It is submitted that Sections 4 to 6 form a single code; while the Act recognised a revision where the fair rent was fixed prior to 1973, the rent fixed after 1973 under Section 4 remained frozen for all times to come; that even as per the calculation done under Section 4, the value of the land and the returns to be calculated are far more than what was prevailing, when the fair rent got fixed at the first instance revealing glaring arbitrariness in continuing a rent totally mismatching with the realities. While Section 6 permits an increase in fair rent when the property tax increases, Section 5 is apparently

inconsistent with Section 4. He further submitted that the rent payable cannot be a stagnant one, particularly in a case where a property consists of two portions in the same building and the rent fixed for one portion 15 years back or so, the second portion in the same building having a fair rent fixed thereafter, projecting totally incomparable rent thus showing anomaly in respect of two portions in the self-same building.

22. Mr.Srinath Sridevan, appearing for some of the petitioners, brought to our attention the Assembly debates and the objects of the amending Acts which showed the shift in the policy in the amending Acts. Mr.Vijay Sundar, appearing in W.P.No.14525 of 2001, also emphasized on the arbitrariness in the working of the provisions. Learned counsel also placed reliance on the decision of the Supreme Court reported in AIR 1977 SC 2191 (MIRAN DEVI Vs. BIRBAL DASS), that Courts have the power to fix the fair rent from any particular date, even though the petition may relate to an anterior date. He also referred to the decision reported in (2003) 7 SCC 589 (INDIAN HANDICRAFTS EMPORIUM Vs. UNION OF INDIA) that law once declared valid may become otiose by efflux of time. He also placed reliance on the decisions reported in (1986) 3 SCC 385 (RATTAN ARYA V. STATE OF TAMIL NADU), (2003) 6 SCC 611 (JOHN VALLAMATTOM Vs. UNION OF INDIA) and (1974) 1 SCC 424 (RAVAL & CO. Vs. K.G.RAMACHANDRAN) to submit that the said decisions do not settle the issue.

23. Mr.K.V.Rajan, appearing for the petitioner in W.P.No.16576 of 1991, referred to the differential treatment meted out to Government buildings which enjoy revision of rent once in three years at 15%, but whereas in the case of building owned by the citizen, except for one-time revision under the Act, no right is protected under Section 5 for a revision in fair rent. In these circumstances, petitioner prayed that the provisions be declared unconstitutional.

24. Mr.Vijayaraghavan, appearing for the tenants in W.P.No.3399 of 2004, pointed out to the fundamental differences between the Madras Act and the Bombay Act and relied on the decision reported in AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA) to emphasise on the difference in language between Section 9-B of the Bombay Act and Section 5 of the Madras Act. He further submitted that Section 5 permits a revision of the fair rent whenever there were additions to the building and that there cannot be a mandamus to the legislature for an amendment as prayed for. That would be intruding into the legislative field. He placed reliance on the decision of the Supreme Court reported in (1998) 8 SCC 275 (C.N.RUDRAMURTHY Vs. K.BARKATHULLA KHAN) and (1995) 1 SCC 104 (D.C.BHATIA Vs. UNION OF INDIA) and submitted that it is for the legislature to decide its policies to be laid for protecting the section of the people. He also

emphasised that the provision of the State Act could not be compared with the other State provisions. For this, he relied on the decision of the Supreme court in (1988) 1 SCC 366 (SANT LAL BHARTI Vs. STATE OF PUNJAB).

25. Learned Government Pleader appearing for the State submits that the decision in (1974) 1 SCC 424 (RAVAL & CO. Vs. K.G.RAMACHANDRAN), fully covers the issue; as such, the petitioners are not entitled to challenge the same.

26. The submission of the petitioner may be summed up as follows:

The grievance of the petitioner herein is that while the Rent Control Act was originally introduced as a wartime measure and as a part-time measure, the continuance of the same disregarding the changed circumstances particularly to one aspect in the components of fair rent fixation is arbitrary and unnatural. The restriction under Section 5(3) snaps the rights of the landlord to have the fair rent fixed in tune with the enhancement in the land value and thus has blocked the rights of the landlords to have a fair return from the property let out. The vast variation in the fair rent fixed in respect of similarly placed properties by reason of invoking of the provisions under Section 4 at different points of time rings a discordant note that there exists no reasonable basis in Section 5(3) of the Act prohibiting the right of the landlord to have a refixation of the fair rent done. As for example, a property having a fair rent fixed under the Rent Control Act, say in 1980, and the property situated in the same building having its fair rent fixed in 1985 stands in no comparison with each other or even with similarly situated properties having the same characteristics in the locality. The property subjected to two different fair rents ceases to enjoy fairness in the treatment and protection from the enactment; thus the provision really is unfair and arbitrary to the detriment of the landlord. Hence, the restriction contained in the provisions scheme of Sections 4 and 5 really work hardship on the rights of the owners of properties let out and hence, arbitrary and violative of Article 14 of the Constitution of India.

27. The petitioners also attack the constitutionality of the provisions, the provisions having failed to satisfy the principles of reasonableness under Article 14 of the Constitution of India.

28. The petitioners submit that the restriction in the provision that in respect of the fair rent fixed post 1973, a landlord could not go for a revision taking note of the changes from time to time with reference to the locality and the prevailing rent and the facilities available would certainly have a serious impact on the rights of the landlord, since once inducted as a tenant, the eviction on any other

ground than the stated one under the Act is a near impossibility without any better return from the property. The grievance of the petitioners is, given the fair rent concept designed as a gross return from the property, the provision in Section 5(3) is really an unfair restriction on the rights of the petitioners offending Article 14. Hence, the proviso to sub section (4) of Section 4 that the fair rent is fixed on market value of the site is totally an illusory provision.

29. The petitioners also point out that the concept of fair rent fixation under Section 4 is dependent on a fair return. The working of a fair rent itself is on the basis of the market value concept. Since the market value is not a static concept, changes in the market value necessarily must have its reflection in fair rent fixation too. Insofar as the Act puts an embargo on a fair rent fixation commensurate with changes in market value, the provisions contained in Section 5(3) is totally arbitrary and hence, offensive of Article 14.

30. At this stage, before going into the rival contentions, we may usefully extract Sections 4 and 5 of the Rent Control Act. The provisions under challenge are highlighted:

> Section 4:
>
> " Fixation of fair rent.-
>
> (1) The Controller shall on application made by the tenant or the landlord of a building and after holding such enquiry as he thinks fit, fix the fair rent for such building in accordance with the principles set out in the following sub-sections.
>
> (2) The fair rent for any residential building shall be nine per cent gross return per annum on the total cost of such building.
>
> (3) The fair rent for any non-residential building shall be twelve per cent gross return per annum on the total cost of such building.
>
> (4) The total cost referred to in sub-section (2) and sub-section (3) shall consist of the market value of the site in which the building is constructed, the cost of construction of the building and the cost of provision of anyone or more of the amenities specified in Schedule I as on the date of application for fixation of fair rent:
>
> Provided that while calculating the market value of the site in which the building is constructed, the Controller shall take into account only that portion of the site on which the

building is constructed and of a portion upto fifty per cent, thereof of the vacant land, if any, appurtenant to such building the excess portion of the vacant land, being treated as amenity:

Provided further that the cost of provision of amenities specified in Schedule I shall not exceed --

(i) in the case of any residential building, fifteen per cent; and

(ii) in the case of any non-residential building, twenty-five per cent,

of the cost of the site in which the building is constructed, and the cost of construction of the building as determined under this section.

(5)(a) The cost of construction of the building including cost of internal water-supply, sanitary and electrical installations shall be determined with due regard to the rates adopted for the purpose of estimation by the Public Works Department of the Government for the area concerned. The Controller may, in appropriate cases, allow or disallow an amount not exceeding thirty per cent, of construction having regard to the nature of construction of the building.

(b) The Controller shall deduct from the cost of construction determined in the manner specified in clause (a), depreciation, calculated a the rates specified in Schedule II. "

Section 5:

" Change in fair rent in what cases admissible-

(1) When the fair rent of a building has been fixed [or refixed] under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building is then in the occupation of a tenant, at his request:

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this 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:

Provided further that any dispute between the landlord and the tenant in regard to any increase

claimed under this sub-section shall be decided by the Controller.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or dimunition in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed:

provided that any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Controller.

(3) Where the fair rent of any building has been fixed before the date of the commencement of Tamil Nadu Buildings (Lease and Rent Control) Amendment Act, 1973, the landlord or the tenant may apply to the Controller to refix the fair rent in accordance with the provisions of Section 4 and on such application, the Controller may refix the fair rent.
"

31. While considering the merits of the submissions of the petitioner, it is necessary that we keep in mind that the Rent Act is a piece of social legislation enacted to protect the tenants from capricious and frivolous eviction. The legislation extends statutory protection to the tenants who could not be evicted or rent thrust on except in the manner provided under the Act. It may be noted that the Rent Act is not a statutory protection having one-sided running of the benefit to the tenants alone. The Act provides for fixation of fair rent and also for enhancing/reducing the same under the given set of circumstances. Therefore, it prescribes protection both to the aggrieved landlord as well as to the tenant. In short, it affords legal protection against any excesses either from the side of the landlord or the tenant.

32. A perusal of Section 4 shows that the fair rent shall be fixed in accordance with the principles set forth in Section 4. In the case of residential buildings, the fair rent is quantified by 9% on the "gross returns on the total cost of the building as on the date of the application for fixation of fair rent". In the case of non-residential building, it is stated to be 12% on the gross return. The total cost of the building referred to in Sub Sections (2) and (3) consist of the market value of the land and cost of construction of the building and cost of the amenities specified as on the date of the application for fixation of fair rent. The cost of construction and the market value of the building as on the date of application is taken as per the proviso of Sub Section (4). As per Section 4(5)(a), the cost of construction adopts the value worked out by the Public

Works Department of the Government for the area concerned. It further stipulates that the Controller shall deduct from the cost of construction determined in the manner specified in clause (a), depreciation calculated at the rates specified in the Second Schedule. The market value of the site in which the building is constructed for the purpose of fair rent fixation, takes note of the portion of the site on which the building is constructed and a portion of 50% thereof, of the appurtenant land in excess of the vacant land being treated as an amenity.

33. A perusal of the Section 5(1) shows that the fair rent fixed once shall not undergo a further increase or a reappreciation except in cases of alteration, improvement or addition to the building. Further, the Section enjoins that the building should be in the occupation of a tenant and at his request the said modification has been carried out at the expense of the landlord. Under Sub Section (3) where the fair rent of the building has been fixed before the commencement of the Act of 1973, then the refixing of fair rent in accordance with Section 4 is available to a landlord.

34. It is no doubt true that the rent fixed at different points of time for two properties in the same building lead to different results. The rent fixed under Section 4 is a fair working on the market value of the property assuring a certain return from the property to the landlord. But at the same time, it must not be forgotten that the fair rent fixed is a gross return at a percentage on the "total cost of the building". It may go for a rise or an increase wherever there is a case of an addition, improvement, or an alteration carried out at the instance of the tenant and at the expense of the landlord. Further, under Section 6, where the amount of tax in cases payable by the landlord in any half year commencing on 1.4.1950 or any later date, exceeds the one payable for the first half year ending 30th September 1946 or the first complete half year after the date on which the building was first let, whichever is later, the landlord shall be entitled to claim such excesses from the tenant in addition to the rent payable for the building under the Act.

35. In the background of the scheme under the Tamil Nadu Act, the decision relied on need to be noted on the law laid down therein.

36. Learned counsel appearing for the writ petitioners laid great stress on the decision of the Apex Court in AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA). This decision arises out of a decision from the Bombay High Court under the Bombay Rents, Hotel and Lodging House Rates Control Act. Considering the provisions of the Bombay Act, the Apex Court held that the provisions of the Bombay Rent Control Act relating to the determination and fixation of the

standard rent could no longer be considered to be reasonable. Referring to the increase of rents being frozen with effect from 1st September 1940, the Apex Court held that the restriction on the right of the landlords was no longer a reasonable restriction and the provision had become discriminatory, arbitrary and unreasonable. The Apex Court further referred to the 1987 amendment and pointed out that the said amendment did not do away with the principle of pegging down of the rent at a rate when the premises was first let out.

37. At paragraph 28 of the judgment, the Apex Court referred to the object behind the social legislation like a Rent Control legislation. Referring to the statistics given as regards the changes in the standard of living, the burden on the landlords by reason of various demands under the statutory provisions and the restriction thereon, the Apex Court noted that the amendments brought forth in 1987 indicated the fact that the State legislature was conscious of the need for increasing the standard rent. However, the amending Act merely consolidated and re-arranged the Sections without making any substantive change to the pegging down of the rent at a rate when the premises was first let out. The Court called this amendment as cosmetic in character and thus the provisions were held to be bad in law. The Court, however, felt that it was not necessary to strike down the same, since the provisions of the Rent Act were to come to an end from 31.3.1998 and the new bill was under consideration. Ultimately, the Apex Court, without striking down the provisions, held that the decision of the High Court was not correct. The judgment dated 19.12.1997 expressed hope that a new Rent Control Act would be enacted with effect from 1st April 1998, keeping in view the observations made in the judgment insofar as fixation of standard rent is concerned. However, it made clear that any further extension of the existing provisions without bringing them in line with the views expressed in the judgment, would be invalid as being arbitrary and violative of Article 14 of the Constitution of India.

38. In the course of argument, learned counsel for the petitioners referred to the decision of the Kerala High Court reported in 1995 2 KLT 848 (ISSAC NINAN Vs. STATE OF KERALA). Referring to the decision of the Supreme Court reported in AIR 1987 SC 2016 (GANPAT RAM Vs. GAYATRI DEVI), dealing with the Rent Act in the State of Kerala, the Kerala High Court held that the Rent Control Act is a beneficial legislation; yet, the legislation does not confer any vested right on the tenants. Even though there is a presumption as to the constitutionality of a provision of an enactment, the Act should be read so as to prevent it from being exposed to the vice of unconstitutionality. Referring to the word "control" and the interpretation of the said term in the decisions of the Supreme Court reported in (1972) 4 SCC 600 (SHAMRAO VITHAL CO-OP. BANK LTD. Vs.

K.P.MALLYA), AIR 1974 SC 1863 (STATE OF MYSORE Vs. A.KARIBASAPPA) and AIR 1984 SC 626 (CORPORATION OF NAGPUR Vs. RAMCHANDRA G.MODAK), the Court held that the observations in these decisions can be used to extend the contours of control. The rent amount cannot remain as static, oblivious of the changes in economic conditions, improvement of the locality, from commercial angles. It held that the rent need to be a fair one. The conditions which prevailed at the time of the fixation of fair rent, the extent of the same and the nature of the restriction need to be taken into consideration when a challenge is made to the reasonableness of such restriction by the passage of time. In the light of the observations made by the Supreme Court in AIR 1989 SC 1988 (SODAN SINGH Vs. NEW DELHI MUNICIPAL COMMITTEE), the High Court held that the provisions of Section 8 of the Kerala Act is a restriction on the right to carry on business under Article 19(1)(g). It further held that the fair rent under Section 5 cannot stand alone without subsidiary and incidental provisions for periodical revision of the fair rent. The provisions in the scheme of fair rent fixation cannot be extricated as the same is a package and are mutually dependent. Hence, the provisions namely, Sections 5, 6 and 8 are ultra vires the provisions of the Act.

39. Learned counsel also referred to the decision reported in (1986) 3 SCC 385 (RATTAN ARYA Vs. STATE OF TAMIL NADU AND ANOTHER). This relates to a case where the tenants of residential building paying monthly rent in excess of Rs.400/- were excepted from the protection of the Tamil Nadu Act when no restrictions were imposed over the tenants occupying non-residential building. Striking down the provisions of Section 30(ii) of the Tamil Nadu Act of 1960, the Supreme Court held that:

> " It is one thing to say that tenants belonging to the weaker sections of the community need protection and an altogether different thing to say that denial of protection to tenants paying higher rents will protect the weaker sections of the community. "

Referring to the ceiling of Rs.400/- of rent payable by the tenants of residential buildings as per the 1973 Amendment to Section 30(ii), the Supreme Court held that whatever be the justification in 1973 in respect of such ceiling, the passage of time has made the ceiling unreal. The Court further referred to the decision in (1984) 1 SCC 222 (MOTOR GENERAL TRADERS Vs. STATE OF A.P.) and held that:

> " What was once a perfectly valid legislation, may in course of time, become discriminatory and liable to challenge on the ground of its being violative of Article 14. "

The Court held that the reasoning based on protection of the weaker sections of the community is entirely inconsistent with the protection given to tenants of non-residential buildings who were in a position to pay much higher rents. Hence, Section 30(ii) was struck down as unconstitutional.

40. The decision reported in (2002) 10 SCC 180 (K.N.RAGHAVAN Vs. HABEEB MOAHMMED AND OTHERS) relied on by the petitioners is a case wherein the Apex Court, referring the decision of the Kerala High Court reported in 1995 KLJ 555:1995 (2) KLT 848 (ISSAC NINAN Vs. STATE OF KERALA) and the findings recorded therein, dismissed the appeal filed by the tenant who was found to be in arrears of tax. Without going into the merits of the decision of the High Court, the Supreme Court held that where the tenant had fallen into arrears, the contention that the tenant was not a party to the proceedings and hence not binding, has no merit. When any provision is held to be ultra vires, it covers the field as against all its subjects who are within the jurisdiction of the said legislation and the Court.

41. The Apex Court, in (1984) 1 SCC 222 (MOTOR GENERAL TRADERS V. STATE OF A.P.), had an occasion to consider the Andhra Pradesh Rent Control Act, 1960. This relates to the continuance of an exemption granted under Section 32(b) of the Andhra Pradesh Act, whereunder there is a classification of the rent exemption Clause.

42. In the course of this judgment, the Supreme Court noted that the exemption granted in respect of buildings constructed after 1957 continued for more than quarter of a century. The amendment attempted on, however, did not materialise owing to the dissolution of the legislative assembly. The Supreme Court noted that the provisions granting exemption per se was discriminatory and held the classification of buildings for the purposes of Section 32(b) did not satisfy the test of valid classification as per the standards laid down by the Supreme Court in the case of RAM KRISHNA DALMIA Vs. JUSTICE TENDOLKAR (AIR 1958 SC 538). The Supreme Court further held that what may be unobjectionable as a transitional or temporary measure at an initial stage

can still become discriminatory and violative of Article 14 of the constitution if it persisted in over a long period without any justification. Referring to the decision of the Apex Court in RAM KRISHNA DALMIA Vs. JUSTICE TENDOLKAR (AIR 1958 SC 538) on the question of Article 14 with reference to continuance of a provision where the consideration of necessity and expediency had either become obliterated or irrelevant by passage of time, the provisions were declared as violative of Article 14. The cases referred to were under the State Reorganisation Act. Ultimately, the Court held that there was no material to strike down the provision, although the Court felt that a non-discriminatory piece of legislation may, in course of time, become discriminatory and exposed to a successful challenge on the ground that it violated Article 14. The Court further noted that if by striking down the provision, the class which is going to be affected is enlarged, the Court cannot strike down the impugned provision. Referring to the decision in D.S.NAKARA Vs. UNION OF INDIA (1983 1 SCC 305), the Apex Court held that by adopting the principle of severability by striking down the words of limitation in the enactment, the provision can still be upheld.

43. The Apex Court held that the principles of Section 32(b) should be declared as violative of Article 14, since the continuance of the provision will imply creation of a privileged class of landlords. The Court held that the provisions of the Act will be applicable to all buildings except to those falling under Section 32 (a), exempted under Section 26 of the Act, irrespective of the date of their construction. In the circumstances, the Court reversed the judgment earlier by the Andhra Pradesh High Court.

44. The sum and substance of these decisions cited may be stated as follows:

A statute is a valid piece of legislation having regard to the presumption of constitutionality. The legislature understands and appreciates the need of the people and direct itself to the problems. The discrimination that it imposes based on the necessities or the policies which brought forth the legislation is valid, justifiable in law. The legislature having full knowledge of the demands of the society, act in reasonableness to the needs of time. Yet, the presumption of constitutionality cannot be carried on or extended for some presumed reasons to a degree of breaking, that legislation would only be called bad, discriminatory offending Article 14. Consequently, a provision of law which was valid at the inception of its enactment may nevertheless become obselete and arbitrary under a set of changed circumstances. Considerations of necessity and expediency on the grounds which justify the special treatment may cease to exist, thus making the very provision unconstitutional.

45. Learned counsel appearing for the petitioner brought to the attention of this Court the decision of the Supreme Court to impress on the fact that a law which was originally valid, by efflux of time, may become arbitrary and hence, deserves to be declared so. In this connection, learned counsel appearing for the petitioners referred to the decision in (2003) 7 SCC 589 (INDIAN HANDICRAFTS EMPORIUM Vs. UNION OF INDIA). The Supreme Court held:

> " There cannot be any doubt whatsoever that a law which was at one point of time constitutional may be rendered unconstitutional because of passage of time. "

The Supreme Court held in the same decision:

> " An enactment which is enacted in public interest cannot be struck down on the ground that Court thinks it unjustified; that the function of the Court is only to expound and not to legislate. "

46. A perusal of the contentions of the petitioners herein show that in almost all cases, there had been a fair rent fixed once and that the second round of litigation in respect of the petitioners were prompted by similarly placed properties going in for fixation of fair rent yielding a better result.

47. In considering the above submissions based on Article 14 violation, the guiding principles enunciated in some of the decisions of the Supreme Court need to be noted. In the decision of the Supreme Court in SHRI RAM KRISHNA DALMIA Vs. SHRI JUSTICE S.R.TENDOLKAR AND OTHERS ((1959) SCJ 147), which need to be noted herein, the Supreme Court held:

> " Two principles have been enunciated as regards Article 14, namely:
> (i) the presumption in favour of the constitutionality of an enactment; and
> (ii) a presumption that the legislature understands and correctly appreciates the need of its own people.
>
> The legislature is presumed to have knowledge of the facts and conditions which render a particular piece of legislation beneficial.

The Supreme Court held, "to make out a case of denial of equal protection of the laws under Article 14, a plea of differential treatment, by itself, would not be sufficient. The party must show that he had been treated differently from the persons similarly circumstanced, without any reasonable basis, and that this was unjustified."

48. On the question of violation of Article 14, the Supreme Court held that "when we are confronted with the problem of a legislation being violative of Article 14, we are not concerned of the wisdom or lack of legislative enactment, but we are concerned with the illegality of the legislation. ... The Courts are not concerned with the unwisdom of legislation." -- ((1987) 4 SCC 238) (PRABHAKARAN NAIR Vs. STATE OF TAMIL NADU).

49. The Supreme Court, in the decision reported in (1987) 4 SCC 238 at 256: AIR 1987 SC 2117 (PRABHAKARAN NAIR Vs. STATE OF TAMIL NADU), quoted from the decision of Justice Krishna Iyer in MURTHY MATCH WORKS Vs. ASSISTANT COLLECTOR OF CENTRAL EXCISE (AIR 1974 SC 497):

> " In short, unconstitutionality and not unwisdom of a legislation is the narrow area of judicial review. "

50. In STATE OF A.P. Vs. McDOWELL & CO. ((1996) 3 SCC 709), the Apex Court held that the parliament and legislature, composed as they are of the representatives of the people, are supposed to know and be aware of the need of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom.

51. In DISTRICT MINING OFFICER Vs. TATA IRON & STEEL CO., ((2001) 7 SCC 358), the Apex Court held:

> " Legislation in a modern State is actuated with some policy to curb some public evil or to effectuate some public benefit. The legislation is primarily directed to the problems before the legislature based on the information derived from past and present experience. "

52. It is an admitted fact that the object of the rent legislation is held as a piece of social legislation having two principles:

(i) Regulation of letting;
(ii) Control of rent;
The intent and purpose of the Act is a welfare legislation extending protection to the landlords as well as to the tenants.

53. It may be noted that the entire scheme of the Act is an integrated one and one part of it has its reflection on the other. Hence, the different aspects of the legislative policy reflect on each other that there need to be a fair emphasis put on the policy behind the introduction of this Act. The inter-relation of the object, purpose and policy cannot be lost sight of in the matter of

considering the validity of these provisions. In the background of this policy and given the basis for calculation in which the land value is only one aspect of the fair rent fixation, we do not find merit in accepting the challenge made under Article 14 of the Constitution of India.

54. A cumulative reading of the scheme of Sections 4, 5 and 6 make it clear that the entire system is so balanced that the fixation of fair rent is stated to be a fair return on a percentage on the total cost of the building calculated on certain guiding principles. It is relevant to note that the First Schedule appended to the Act gives a list of amenities which go with the property leased out in the matter of fixation of amenities. Hence, the fair rent fixation is not solely dependent on the market value of the site, but has several other factors which are provided for under Section 4.

55. As we have stated earlier, Article 14 does not authorise striking down of a law of one State by a process of comparative study of the provisions of two enactments in two different states. Each legislature has provided the method of determination of fair rent. It may be noted that the provisions under Section 5 is not a transitory provision unlike in the Bombay Act there is no pegging down of the rent at a rate when the premises was first let out. It may further be noted that this is not a provision which is made for the particular section of the society. The rent control legislation is a welfare measure. The fair rent fixation procedure is introduced with a view to obviate the chance of exploitation by the landlords. Hence, in enacting Section 5 and in continuing the same as one enabling re-fixation of fair rent under stated circumstances, there is no arbitrariness, since any fixation of fair rent with reference to a property is one calculated on the well formulated guidelines touching on several aspects of the building let out, one of which necessarily has to be the market value of land. Being a fair rent worked on the total cost of the building, the statute provides for re-fixation depending on the improvement, addition or alteration made to the building; hence are different from the provisions of the Bombay Act considered by the Supreme Court in the case of AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA).

56. It may be seen that the provisions of the Bombay Rent Control Act pegged down to the rates prevailing on 1st September 1940. The restriction on the rights of the landlords to have the rents increased in the context of the same frozen as on 1st September 1940 or at the time of first letting was held to be a bad provision, it having gone so with the passage of time. The Supreme Court also noted the amendment in 1987 amendment and pointed out that the said amendment did not do away with the principle of pegging down of the rent. While taking note of the fact that such restriction only led to landlords

taking recourse to pagli system in view of the low rents, the Court expressed serious concern over the disgruntled landlords taking recourse to extra legal methods. In the circumstances, the Court expressed the view that the legislation like the Rent Act must strike a balance between the rival interest and it should be just to all.

57. It may be noted that the provisions of the Bombay Act are not the same as the Tamil Nadu Act for this Court to accept the plea of the petitioners that the decision of the Supreme Court in AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA) has a strong bearing on the issue to hold the Tamil Nadu provisions as unconstitutional. We do not find any merit in accepting the case of the petitioners that the provisions of the Tamil Nadu Act deserve to be considered in the light of the decision of the Supreme Court in the case reported in AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA).

58. So too, the decision of the Supreme Court reported in (1995) 1 SCC 104 (D.C.BHATIA Vs. UNION OF INDIA), the decision reported in (1986) 3 SCC 385 (RATTAN ARYA Vs. STATE OF TAMIL NADU) operate on totally different issues and hence have no bearing, considering the statutory provisions therein. In the case of RATTAN ARYA Vs. STATE OF TAMIL NADU reported in (1986) 3 SCC 385, the situation is a totally different one, wherein, the Court was to consider the constitutionality of the provision in respect of exemption to tenants paying rent exceeding Rs.400/-. In the context of the said arbitrariness, the Court declared the same as unconstitutional.

59. Referring to the Rattan Arya's Case, the Supreme Court held in D.C.BHATIA Vs. UNION OF INDIA ((1995) 1 SCC 104) that it is a matter of legislative policy and it is not for the Court to question the validity on the ground of lack of legislative wisdom. The Court held that the legislature must consider the latitude of making classification having regard to certain circumstances.

60. In the decision reported in (2002) 1 MLJ 568 (KETHMUL Vs. HUSAINI BEGUM), this Court considered a similar plea with regard to rent control provision arising out of a proceedings wherein, the appellate authority held that a second application for fixing the fair rent is maintainable. The tenant challenged that order before this Court. This Court, after referring to the decision of the Supreme Court in the case of MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA reported in AIR 1998 SC 602, as well as the decision in RATTAN ARYA Vs. STATE OF TAMIL NADU reported in (1986) 3 SCC 385, summed up the conclusion holding that the Tamil Nadu Act is different. This Court further held that:

" The Bombay Act which came up for consideration in Malpe Viswanath Acharya's case pegged down the rates prevailing on 1.9.1940. The Andhra Act which was struck down in Mohd. Ataur Rahman Khan v. Mohd. Kamaladdin Ahmed (1987) 1 A.L.T. 216, froze the rents at a rate prior to 5.4.1944. But the Tamil Nadu Act is different. "

The learned single Judge had an occasion to consider the various decisions cited, including those which are cited before this Court and ultimately came to the conclusion referred to above. We do not find any ground to differ from the view expressed by the learned single Judge. It may not be out of place to state here that except for the commonness of the object between the two legislations viz., the Tamil Nadu Buildings (Lease and Rent Control) Act and the Bombay Rents, Hotel and Lodging House Rates Control Act, the provisions are dissimilar and not comparable for applying the decision of the Supreme Court to understand the scope of the provisions to strike down the same.

61. While as a matter of principle it cannot be denied that by efflux of time, the policy which compelled the enactment may lose its vitality or the continuance of the provisions would introduce arbitrariness, yet, by the same token, the said principle cannot be extended to the case on hand as a strait jacket formula, particularly having regard to Section 5 Sub Section (3). The submission that the rent fixed, which was originally the fair rent, ceases to be so since it disregards the various other social and commercial aspects of the building, is totally not supported by the scheme given in Sections 4, 5 and 6.

62. It may be noted that fixation of fair rent is stated to be the percentage of gross return per annum on the "total cost of such building". The provision fixes a variable return depending on the nature of the building. Hence, the emphasis is more on the aspect of the building leased out rather than a return focused on the land aspect alone. The value of the site taken in the computation is only one of the several aspects in the fixation of fair rent. It is a matter of general knowledge that in all cases of lease, the rent under an agreement is a reflection on the building and amenities it provides for, rather than on the site aspect of the building. The value of the site as such alone does not get into the reckoning of the rent. By that, we do not undermine the locational benefits of a building. Yet, when the rent is fixed through the intervention of the Court, it being a fair return on the property let out, necessarily, the fixation has to have some acceptable, logical basis that the end product is a just rent having regard to all the circumstances. Hence, Section 4

provides for a guideline which does not lean favouring one party nor is it so one-sided that it introduces an element of arbitrariness in the computation. Consequently, the one aspect of the valuation, viz., the land undergoing change by market forces, cannot be viewed as introducing an element of arbitrariness on the rent fixation solely by reason of Section 5(3) limitation. Hence, other things remaining the same, the variation in value on the land does not per se introduce an element of arbitrariness to defeat the provisions of Section 5(3). Hence, if under normal circumstances such forces do not have an impact on the rent fixed, we do not find any justification in the contention of the petitioners that in so far as the legislature has failed to provide for re-fixation of fair rent on the changes occurring in one aspect of valuation, there exists arbitrariness in the provision, thus violating Article 14.

63. The emphasis on the matter of fair rent fixation is not on the land, but on the building which is the subject matter of the lease. As had already been noted, it is worked on the total cost of the building and not on the total cost of the property. That is why Section 5(1) provides for or takes note of the situation like improvement, addition and alteration in the building, calling for enhancement and revision of fair rent. Hence, having regard to the above and considering the fact that the test of arbitrariness has to be made on the strength of the provision of the particular enactment, this Court finds no ground to declare the provision as unconstitutional. What is true of the facility in a building may not be true of another unit of the same building. In the absence of any such details, just on the score of the properties situated in the same locality or in the same block enjoying better fair rent fixed, one cannot accept the plea of the petitioners herein to declare the provision as unconstitutional.

64. It is relevant to note that even under Section 5, conscious of the fact that the return has to have a correlation to the investment in providing amenities or addition to the building let out, the statute itself recognises the right for a second fixation of fair rent and does not close the entry for a landlord to approach the Rent Controller for re-fixation of the return on the investment. There is also a reason for providing for re-fixation on the basis of improvement, addition and alteration done to the leased out building. The land let out as it is, does not go for a value revision on any efforts of a person. This is more of a reflection of the market forces. It means, without any additional investment from the person owning the property, market forces determine the appreciation and depreciation in value of land. However, unlike in the case of a land, the appreciation and depreciation of the value herein is related to the investment that the person makes on the building. Consequently,

we do not find any arbitrariness in the provision relating to fair rent fixation, particularly in the light of the provision made under Section 5. The legislative wisdom in keeping this aspect is a well informed knowledge on the subject of leasehold properties. There is no reason for reading any element of arbitrariness to declare the same as violative of Article 14.

65. It is true that whenever a welfare measure like a Rent Control Act is made for a section of the society, it could be at the cost of another. However, it may be noted keeping in mind the larger interest of the society as well, continuance of such a law is necessary. An eviction becomes unreasonable when the object is to exploit the situation arising out of the letting of a property at an unreasonably high rent and the rules of extortionate premium. At the same time, there may also arise circumstances which would justify the inference that the tenant is trying to take an undue advantage of the situation where the rent is abnormally low. By prescribing the guidelines as regards the fixation of fair rent under Section 4 and the further enabling provision under Section 5(1) affording refixation under the stated circumstances therein, the interests taken care of, the question of holding the provisions as unconstitutional does not arise.

66. There are no factual details to show that the provisions act arbitrarily. It may be seen that in some of the petitions, the petitioners have stated that similarly situated properties, be it in the same street or in the same block, are treated differently. There are no details as to how the fair rent in all other cases is fixed to strike arbitrariness and incomparability.

67. It may not be out of place to point out that a fair rent fixed is a fair rent for the building. Jagadeesan,J. Pointed out in VENKATASWAMI Vs. ABDUL RAHIM AND BROTHERS ((1962) 1 MLJ 408) that all fair rent is essentially a just rent having regard to all the circumstances. It is not a rent favourable to the landlord or favourable to the tenant as such.In the case reported in AIR 1974 SC 818 (M/s.RAVAL AND CO. Vs. K.G.RAMACHANDRAN), the Supreme Court held that:

> " A close reading of the Act shows that the fair rent is fixed for the building and it is payable by whoever is the tenant whether a contractual tenant or statutory tenant. What is fixed is not the fair rent payable the tenant or to the landlord who applies for fixation of fair rent but fair rent for the building, something like an incident of the tenure regarding the building. "

68. Considering the view that we have taken, we reject the prayer of the petitioners to declare the provisions as unconstitutional and violative of Article 14.

69. In W.P.No.2550 of 1998 the petitioners have sought for a writ of Declaration declaring the whole of sub section (1) of Section 5 along withthe first proviso thereto, of the Tamil Nadu Buildings (Lease and Rent Control) Act (Act 18 of 1960) as amended by Act 23 of 1973 and 1 of 1980 as ultra vires the Constitution of India and to strike down the same insofar as the petitioners are concerned. For the reasons stated above, the writ petition stand dismissed.

70. In W.P.Nos.4421 and 4422 of 1999 and 16576 of 1991, the petitioners have prayed for a writ of mandamus to direct the respondents to implement the Government Order in G.O.No.753, Public Works Department, dated 7.4.1984 C.No.(RT) 2043 PWD dated 15.10.1987 and to pass appropriate orders. Considering the scope of this Government Order, the respondents are directed to consider the representation and pass orders in accordance with law. For the reasons stated above, these writ petitions are dismissed.

71. In W.P.No.7134 of 2000 the petitioner has sought for a writ of declaration declaring Section 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, as amended by Act 23 of 1973 and Act 1 of 1980 as null and void and consequentially to strike down the said provision as ultra vires the Constitution of India so far as the petitioner is concerned. For the reasons stated above, this writ petition stands dismissed.

72. In W.P.No.3399 of 2004 the petitioners had sought for the issue of a writ of Declaration declaring sub section (1) of Section 5 along with 1 proviso thereto, of the Tamil Nadu Buildings (Lease and Rent Control) Act, (Act 18 of 1960) as amended by Act 23 of 1973 and 1 of 1980 as ultra vires the Constitution of India and to strike down the same insofar as the petitioners are concerned. For the reasons stated above, this writ petition also stands dismissed.

73. In W.P.No.20910 of 2000, the petitioners have sought for a writ of Declaration declaring sub section (1) of Section 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act as ultra vires the Constitution of India and to strike down the same as unconstitutional and further set aside the order dated 28.4.2000 passed by the XV Judge, Small Causes Court, Madras in R.C.O.P.No.1871 of 1996 and remand the said case for fresh disposal in accordance with Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act of 1960. For

the reasons stated above, this writ petition is also stands dismissed.

74. In W.P.No.7696 of 2005, the petitioners have sought for a writ of Declaration, declaring the provisions of Sections 4 and 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as unconstitutional, unjust, unreasonable and violative of constitutional rights to hold the property. For the reasons stated above, this writ petition is also dismissed.

75. In W.P.No.14525 of 2001, the petitioner had sought for a writ of Declaration declaring sub section (1) of Section 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as amended by Tamil Nadu Act 23/73 and 1/80 as invalid and void and of no legal effect as being arbitrary and in contravention of Article 14 of the Constitution of India insofar as the petitioner is concerned. For the reasons stated above, this writ petition is also dismissed.

76. C.R.P.No.686 of 2002 is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), Act as amended by Act 23 of 1973 and Act 1 of 1980 against the order and decreetal order dated 21.3.2002 made in R.C.A.No.129 of 2000 on the file of the Rent Control Appellate Authority (VIII Judge, Court of Small Causes, Chennai), reversing the order and decreetal order dated 20.12.1999 made in R.C.O.P.No.3108 of 1996 on the file of the Rent Controller (XII Judge, Court of Small Causes, Chennai). For the reasons stated above, this Civil Revision Petition stands delinked and posted separately for hearing.

77. C.R.P.No.1662 of 2005 is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), Act as amended, against the decree and judgment dated 6.1.2005 made in R.C.A.No.1611 of 2003 on the file of the Rent Control Appellate Authority (VIII Judge, Court of Small Causes, Chennai), confirming the order dated 12.12.2003 made in R.C.O.P.No.161 of 2001 on the file of the Rent Controller (XVI Judge, Court of Small Causes, Chennai). For the reasons stated above, this Civil Revision Petition also stands dismissed.

78. Taking note of the facts and circumstances, we have no hesitation in rejecting the contention of the petitioners that the provisions of Sections 4 and 5 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, suffer from arbitrariness to declare them as violative of Article 14 of the Constitution of India and hence, unconstitutional.

79. Having thus upheld the provisions of the Act, we feel that a social legislation like the Rent Control Act needs to have a balance

struck to accommodate the changing needs of the society. The Supreme Court, in the decision reported in AIR 1998 SC 602 (MALPE VISHWANATH ACHARYA Vs. STATE OF MAHARASHTRA), held that "insofar as social legislation like the Rent Contrlol Act is concerned, the law must strike a balance between rival interest and it should try to be just to all. ... It is not as if the Government does not take remedial measures to try and offset the effects of inflation. ... The legislature is not shackled by the same constraints as the Courts of law. But its power is coupled with the responsibility."

80. The public policy in a welfare state needs to be dynamic and cannot afford to be static in a growing economy. It is time that the State takes note of the desire expressed by the Apex Court that "this country very vitally and very urgently requires a national housing policy if we want to prevent a major breakdown of law and order and gradual dissolutionment of people; after all shelter is one of our fundamental rights .... A fast changing society cannot operate with unchanging law and pre-conceived judicial attitude. -- (AIR 1987 SC 2117 (PRABHAKARAN NAIR Vs. STATE OF TAMIL NADU).

81. Unlike the constraints that the Courts of law have, legislature has wider space to legislate on to take into account the demands of changing situations. There is greater need to approach the problem from a holistic perspective in matters of this nature. In the course of the arguments, we were given to understand by the learned Special Government Pleader that the Government was contemplating an amendment to the provisions of the Rent Act. We hope that keeping in mind the sentiments expressed, the State will take remedial action soon to fine-tune the provisions of the Act to match the changes in time.

82. There will, however, be no order as to costs. W.P.M.P.Nos.6329 and 6330 of 1999, W.P.M.P.No.10591 of 2000 are C.M.P.No.14003 of 2003 are closed.

ksv

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Secretary to Govt
   State of Tamilnadu
   Education Department
   Fort St. George
   Madras-600 009.

2. The Chief Engineer (Buildings)
   Public Works Department
   Chepauk, Madras-600 005.

3. The Revenue Divisional Officer and
   Accommodation Controller
   State Bank Road
   Coimbatore-641 018.

4. The Divisional Engineer (Buildings)
   Public Works Department
   Big Bazaar Street
   Coimbatore-641 001.

5. The Director
   N.C.C.Directorate
   Tamilnadu and Pondicherry
   Fort St.George, Madras-600 009.

6. The Officer Commanding
   4(TN) Batalian N.C.C.
   No.3, Race Course Road
   Coimbatore-641 018.

7. The Chief Secretary to Government
   State of Tamil Nadu
   Fort Saint George, Chennai 600 009.

8. The Secretary to Government
   Law Department,
   Government of Tamil Nadu
   Fort St. George, Chennai-9.

9. The X Judge(Rent Controller,)
   Small Causes Court Madras
   High Court Compound,
   Chennai-104.

10. The XII Judge
    Court of Small Causes, Chennai

11. The VIII Judge,
    Small Causes Court Chennai-104
    Appellate Authority under Act,
    18 of 1960, High Court Compound,
    Chennai 600 104

12. The Secretary to Government
    Housing and Urban Development
    Department, Secretariat,
    Chennai 600 009.

13. The Branch Manager
    The National Textile Corporation (TN & P)
    N.T.C. Showroom Adyar Chennai 600 020.

+ 2 cc to Shah and Shah Advocate sr no. 28081 and 28082
+ 1 cc to Mr. K. Bijai Sundar Advocate sr no. 28133
+ 1 cc to Mr. K.V. Sundararajan, Advocate sr no. 28485
+ 1 cc to Mr. K. Yamunan Advocate sr no. 28090
+1 cc to M/s. S. Vijayaraghavan, Advocate sr no. 28041
+ one cc to M/s. G. Devi Advocate sr no. 28154
+ 1 cc to Mr. K.V. Rajan Advocate sr no. 28229

Pre-delivery order in

W.P.Nos.16576 of 1991, 2550, 4421, 4422, of 1999, 7134 and 20910 of 2000, 14525 of 2001, 43116 of 2002, 3399 of 2004 and 7696 of 2005 and C.R.P.No.1662 of 2005

BP,KK,KM,NM/8.8.06

Delivered on:

AK(CO)

30.06.2006