
(2021) 03 JH CK 0210

In the Jharkhand High Court

Case No : Writ Petition(C) No. 4122 of 2019

Ajay Kumar Jana @ Ajay Jena

APPELLANT

Vs

State of Jharkhand & Ors

RESPONDENT

Date of Decision : 24-03-2021

Acts Referred:

Jharkhand Buildings (Lease, Rent & Eviction) Control Act, 2011 — Section 39

Citation : (2021) 03 JH CK 0210

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Indrajit Sinha, P.C. Roy

Judgement

The present interlocutory application has been filed on behalf of the petitioner seeking stay of notice as contained in memo no. 178 dated 23.02.2021 issued by the Circle Officer, Chakulia (the respondent no. 3).

Mr. Indrajit Sinha, learned counsel for the petitioner, while pressing the present interlocutory application, submits that in the instant writ petition, the petitioner has raised an issue with regard to jurisdictional error committed by the Sub-Divisional Officer-cum-House Rent Controller under Jharkhand Buildings (Lease, Rent & Eviction) Control Act, 2011 (in short "the Act, 2011), Ghatsila (the respondent no. 2) who initiated H.R.C. Case No. 03 of 2018 and thereby passed the impugned order dated 15.01.2019 directing the petitioner to vacate the premises in question and handing over the same to the respondent no. 4 within one month from the date of the order. It is further submitted that during pendency of the present writ petition, the respondent no. 3 has issued a notice as contained in memo no. 178 dated 23.02.2021 directing the petitioner to vacate the premises in question and handing over the same to the respondent no. 4 within a week from the date of the order in terms with order passed by the respondent no. 2 in H.R.C. Case No. 03 of 2018. It is also submitted that as per the provisions of Section 39 of the Act, 2011, any order passed by the Rent Controller as well as the orders passed by the appellate and revisional authority

are to be implemented by the Rent Controller himself. The Circle Officer has no jurisdiction to direct the defendant-tenant of the eviction case under the Act, 2011 to vacate the premises.

Mr. P.C. Roy, learned S.C. (L&C) -I appearing on behalf of the respondent nos. 1 to 3, submits that since the petitioner did not vacate the premises in question despite order dated 15.01.2019 passed by the respondent no. 2 in H.R.C. Case No. 03 of 2018, the respondent no. 3 has issued the impugned notice dated 23.02.2021 for implementing the order dated 15.01.2019 passed by the respondent no. 2.

Having heard the learned counsel for the parties and looking to the provisions of Section 39 of the Act, 2011, the operation of notice as contained in memo no. 178 dated 23.02.2021 issued by the respondent no. 3 is stayed.

I.A. No. 1520 of 2021 stands disposed of.

W.P.(C) No. 4122 of 2019 Issue notice to the respondent no. 4 through ordinary process for which requisites etc. must be filed by 7th April, 2021.

Put up this case after six weeks under appropriate heading.