
(2020) 11 JH CK 0027

In the Jharkhand High Court

Case No : Writ Petition(C) No. 6669, 6670, 6671, 6672 Of 2019

Akhtar Hussain And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 05-11-2020

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 — Section 3, 5, 8

Citation : (2020) 11 JH CK 0027

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Saibal Mitra, Krishanu Ray

Final Decision : Dismissed

Judgement

1. These cases are taken up through video conferencing.
2. Since all these writ petitions arise out of similar impugned orders, they are being disposed of by this common order.
3. W.P.(C) No. 6672 of 2019 has been filed for quashing and setting aside the order dated 28.08.2019 passed by the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa in H.R.C. Revision No. 05/2018, whereby the order dated 15.12.2017 passed by the Deputy Commissioner, East Singhbhum, Jamshedpur in H.R.C. Appeal No.66 of 2015 and the order dated 05.01.2016 passed by the Sub Divisional Magistrate-cum-House Rent Controller, Dhalbhum, Jamshedpur in H.R.C. Case No.10 of 2013 have been affirmed.
4. W.P.(C) No. 6669 of 2019 has been filed for quashing and setting aside the order dated 28.08.2019 passed by the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa in H.R.C. Revision No.01/2018, whereby the order dated 15.12.2017 passed by the Deputy Commissioner, East Singhbhum, Jamshedpur in H.R.C. Appeal No.62 of 2015 and the order dated 05.01.2016 passed by the Sub Divisional Magistrate-cum-House Rent Controller, Dhalbhum, Jamshedpur in H.R.C. Case No.09 of 2013 have been affirmed.

5. W.P.(C) No. 6670 of 2019 has been filed for quashing and setting aside the order dated 28.08.2019 passed by the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa in H.R.C. Revision No.02/2018, whereby the order dated 15.12.2017 passed by the Deputy Commissioner, East Singhbhum, Jamshedpur in H.R.C. Appeal No.63 of 2015 and the order dated 05.01.2016 passed by the Sub Divisional Magistrate-cum-House Rent Controller, Dhalbhum, Jamshedpur in H.R.C. Case No.06 of 2013 have been affirmed.

6. W.P.(C) No. 6671 of 2019 has been filed for quashing and setting aside the order dated 28.08.2019 passed by the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa in H.R.C. Revision No.04/2018, whereby the order dated 15.12.2017 passed by the Deputy Commissioner, East Singhbhum, Jamshedpur in H.R.C. Appeal No.65 of 2015 and the order dated 05.01.2016 passed by the Sub Divisional Magistrate-cum-House Rent Controller, Dhalbhum, Jamshedpur in H.R.C. Case No.08 of 2013 have been affirmed.

7. The factual background of the cases is that the respondent no.5 is the owner of the building known as 'Kashi Complex', situated at Main Road, Haldipokhar, P.S. Potka, District East Sinhbhum (hereinafter to be referred as the 'said complex'). The petitioners were inducted as tenants of the shops situated in the said complex and they were carrying on their respective businesses in the said shops on payment of monthly rent as agreed by them. The respondent no.5 filed separate cases against the petitioners under Section 5 read with Section 8 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 before the Sub Divisional Magistrate-cum-House Rent Controller, Dhalbhum, Jamshedpur-respondent no.4, claiming that the rent of the tenanted premises should be Rs.20/- per sq. ft. The petitioners appeared before the respondent no.4 and objected the claim of the respondent no.5, stating therein that the said complex is situated within a village area under Haldipokhar Panchayat, which is quite far from Jamshedpur. It was further claimed that they were paying rent of the tenanted premises as per the conditions agreed by them. They had also paid security deposit, which would be refunded by the respondent no.5 after vacation of the premises. The respondent no.4 initially directed the Block Development Officer, Potka to submit an enquiry report, however, the said authority did not give specific recommendation and opinion in enquiry report and as such another report was sought from the Assistant Director, Dhalbhum Panchayat, Jamshedpur with specific recommendation and opinion. Thereafter, the Assistant Director, Dhalbhum Panchayat, Jamshedpur made inspection of the site in presence of both the parties and submitted a report. The respondent no.4 having taken into consideration the report of the Assistant Director, Dhalbhum Panchayat, Jamshedpur as well as having taken into consideration the facilities and conditions of the building, fixed rent of the tenanted premises of all the petitioners as Rs.10/- per sq. ft. except the petitioner- Md. Mansur whose rent has been fixed as Rs.9/- per sq. ft.

8. The learned counsel for the petitioners contends that the Rent Controller

arbitrarily fixed the rent of the tenanted premises ignoring the security money deposited by the petitioners with the respondent no.5 and the electric charges being paid by them. It is submitted that the petitioners have not violated the terms and conditions of the rent agreement and have been paying enhanced rent as increased periodically and agreed by the parties. It is also submitted that the said complex is situated in the village area under Haldipokhar Panchayat and the rent of the shop in such area cannot be fixed in square feet.

9. The learned counsel appearing on behalf of the respondent-State as well as the private respondent submit that there are concurrent findings of fact given by the courts below and the petitioners have failed to show any legal infirmity in the impugned orders. Thus, interference by this Court under writ jurisdiction is not warranted. It is further submitted that the Rent Controller has fixed the rent of the tenanted premises only after providing sufficient opportunity of hearing to the petitioners as also after inspection of the site, which was done in presence of the parties, and as such the factual plea raised by the petitioners before this Court is not entertainable.

10. Heard the learned counsel for the parties and perused the materials available on record. The learned Sub Divisional Magistrate-cum-House Rent Controller, Dhalbhum, Jamshedpur has passed the impugned orders all dated 05.01.2016 after taking into consideration the locality as well as the condition of the rented premises. The Assistant Director, Dhalbhum Panchayat, Jamshedpur had inspected the site in presence of the parties and to that effect a detailed report was also submitted. It transpired from the said report that although the said complex is situated in the village area, it is in the heart of Haldipokhar market and on Tata-Orissa Road. He also enquired about the rent of shops situated at the top floor of the said complex and found that the rent of Union Bank was Rs.3,540/- enhanceable at the rate of 15% in every five years and the rent of M/s Welfare Building Estate Pvt. Ltd. was Rs.6000/- per month for the area 1200 sq. ft. and both these were situated on the top floor of the said complex. He also found that one Sanjay Kumar Nandi had lent his top floor of the house situated at the distance of 100-150 yards from the said complex to Bank of India, on payment of monthly rent Rs.16,000/-. He further found that all the amenities were available in the said complex and the shops were in very good condition. All these factual aspects were taken into consideration by the Rent Controller while fixing rent of the tenanted premises of the petitioners. The appellate authority as well as the revisional authority also considered the materials available on record and rejected the appeals and revisions of the petitioners.

11. One of the arguments raised by the learned counsel for the petitioners before this court is that the petitioners had also paid refundable security deposit to the respondent no.5 and the said fact has not been taken into consideration by the courts below while passing the impugned orders. In support of said contention, the learned counsel has invited the attention of this Court to the provisions of Section 3 of the Act, 1982.

12. I have perused Section 3 of the Act, 1982, which provides that it shall not be lawful for any person to claim or receive, in consideration of the grant, renewal or continuance of a tenancy of any building, the payment of any premium, salami, fine or any other like sum in addition to the rent or payment of any sum exceeding one month's rent of such building as rent in advance. The petitioners could have raised the said objection before the appropriate authority when such security deposit was demanded from them, however, they failed to do so. Moreover, neither before the Rent Controller nor before the appellate as well as revisional authority, the claim of refund of security deposit or adjustment of the same in rent was made by the petitioners with supporting document in proof of payment of the security deposit to the respondent no.5, rather it is the own admission of the petitioners that the said security deposit was refundable. Had there been any such plea before the courts below with supporting documentary proof, there would have been factual determination on it. Moreover, in support of the said submission, the petitioners have not brought on record the lease agreement or any such document to substantiate their claim with respect to payment of security deposit and as such I am of the view that the said argument of the petitioners is not worth consideration. The learned courts below, while passing the impugned orders, have given concurrent finding of facts. The petitioners have failed to show any legal and factual infirmity in the impugned orders and as such no interference of this court is warranted under the writ jurisdiction.

13. These writ petitions are, accordingly, dismissed.