
(2011) 04 JH CK 0117

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5532 of 2010

Anisur Rahman and Another

APPELLANT

Vs

Jogendra Singh and Others

RESPONDENT

Date of Decision : 04-04-2011

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 — Section 15

Citation : (2011) 04 JH CK 0117

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present writ petition has been preferred against the order passed by learned Additional Judicial Commissioner-XVII, Ranchi dated 17th May, 2010 in Title Appeal No. 44 of 2006, whereby, an application preferred by the present Petitioners has been rejected and the order passed by the trial court for deposition of the rent amount is maintained by the lower appellate court, even at the stage of the appeal.

2. Having heard learned Counsel for the Petitioners and looking to the facts and circumstances of the case, I see no reason to entertain this writ petition mainly for the following facts and reasons:

(i) The present Petitioners are original Plaintiffs, who have instituted Title (Eviction) Suit No. 7 of 1987 mainly on the ground that lease period has already expired and secondly for eviction of Respondent No. 1 from the suit premises on the ground of personal need.

(ii) It appears from the facts of the case that an application u/s 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 was preferred and it was directed by the trial court on 16th August, 2004 to deposit the amount of rent by the tenant in the court and no person will be entitled to withdraw the same amount, without the order of the court.

(iii) It also appears that the suit was ultimately dismissed by the trial court vide order dated 30th March, 2006 because of some judgment and decree passed in Title Suit No. 131 of 1990, which was preferred by original Defendant Nos. 1 and 2.

(iv) It further appears from the facts of the case that against the dismissal of the Title (Eviction) Suit No. 7 of 1987, the present Petitioners (original Plaintiffs) had preferred Title Appeal No. 44 of 2006 and they had also preferred another application u/s 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 and in this application, order was passed to the effect that whatever order is passed by the trial court dated 16th August, 2004 is maintained by the lower appellate court.

(v) Looking to the facts and the impugned order, it appears that there is no error committed by the lower appellate court while passing the order dated 17th May, 2010 in Title Appeal No. 44 of 2006, below an application preferred by the present Petitioners (original Plaintiffs/Appellants) u/s 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982.

(vi) Looking to the order passed by the trial court dated 16th August, 2004, which is at Annexure-5 to the memo of the present petition, it appears that the trial court has given a direction to the original Defendants to deposit the amount of rent in the court and it was further directed that no person would be entitled to withdraw the same amount, until, the court decides the dispute and pass an order for payment of the same.

(vii) Looking to the facts of the case, it appears that the order passed by the trial court as well as the lower appellate court, below an application u/s 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982, is just, proper, equitable and is in consonance with the law.

More particularly, looking to the dispute, which is already settled by some another court in Title Suit No. 131 of 1990 and in that another suit, period of lease was already extended for ten years in favour of the original tenant. It may happen that application may be preferred for further extension of the lease period. Like the earlier order, there are all chances of the extension of the lease period and, therefore, no illegality has been committed by the trial court, much less, there is an error apparent on the face of the record while deciding the application u/s 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982. There is no substance in this writ petition and, hence, the same is, hereby, dismissed.