

(2013) 01 JH CK 0028

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1584 of 2005

Auto Centre and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 2 AJR 116

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rajesh Kumar, for the Appellant; Nipun Bakshi, for the Respondent

Final Decision : Allowed

Judgement

Aparesh Kumar Singh, J.—By this interlocutory application, respondent Nos. 2 & 3 have sought for vacation of the interim order of stay passed on 6th of April, 2005 which has continued thereafter. By the said interim order, respondents were restrained from taking any coercive steps against the petitioners. Writ petitioners had approached this Court against the order dated 5th of January, 2005 passed by the respondent No. 3-Estate Manager by which a demand was raised for payment of rent, maintenance, interest and electricity charges. Petitioners had taken a plea that they were paying rent at the agreed rate of Rs. 800/- per month which, according to them, was affirmed in a judgment dated 16th of January, 1999 passed by the appellate authority in BGP Appeal No. 01 of 1997.

2. Earlier, time was allowed to the petitioners to file their response to the instant I.A., but petitioners have not yet filed any response to the same and further adjournment is being sought which is refused.

3. According to the respondents, petitioners had earlier preferred CWJC No. 3352/94 (R) for directing the respondents to give shops in front portion of the Sainik Bazar on the alleged assurance of the Estate Manager and Deputy Development Commissioner. Patna High Court however refused to interfere in the said writ petition but gave a liberty to the petitioners to submit representation

before the respondents. That representation was disposed of by holding that the Estate Managing Committee had never made promise to construct the shop and the Estate Manager was not authorized to make such promise, nor the Deputy Development Commissioner had given any such assurance to the petitioners to construct and make available to them alternative commercial premises by the side of the Indian Airlines Building. Such stand was taken as according to the respondents, Deputy Development Commissioner or the Estate Manager had no authority or power to give any such undertaking on behalf of Sainik Kalyan Nideshalaya. Petitioners thereafter filed another writ petition being CWJC No. 1375/96 (R) which was finally dismissed by judgment dated 24th August, 2007 holding that the assurance if any given by the Estate Manager or Deputy Development Commissioner, had no consequence as they had no authority to decide the issue. Civil Review being Civil Review No. 79/07 was preferred which was also dismissed on 18th February, 2009 (Annexure-B to the counter-affidavit). Thereafter, petitioners preferred Letters Patent Appeal being LPA No. 144/09 which was also dismissed by order dated 10th September, 2012 (Annexure-G to the counter-affidavit). In these circumstances, respondents have sought vacation of the interim order by submitting that the petitioners have been paying monthly rent of Rs. 800/- only for almost more than 25 years, while even war widows and other categories of tenants have been paying much higher rent. It is submitted that interim order was passed in view of the pendency of the writ petition i.e. CWJC No. 1375/96 (R). After having heard counsel for the parties, I am of the view that there is no reason to allow the interim order to continue any more as the writ petition WPC No. 1375/96 (R) has since been dismissed and letters patent appeal preferred against the order passed in the writ petition, has also been dismissed. Petitioners" cannot claim to pay rent of Rs. 800/- per month which was agreed more than 25 years ago as the other similarly situated persons are subjected to pay much higher rent.

In that view of the matter, the interim order of stay dated 6th of April, 2005 stands vacated. I.A. stands allowed.

List the case under the heading for admission.