
(2011) 01 JH CK 0045

In the Jharkhand High Court

Case No : Writ Petition (C) . No. 6358 of 2010

Birendra Kumar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-01-2011

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 — Section 27, 5

Citation : (2011) 01 JH CK 0045

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Judgement

Poonam Srivastav, J.—The instant writ petition has been moved challenging the orders dated 12.07.2010 and 16.11.2010 passed by Respondent No. 2 Commissioner, South Chotanagpur Division, Ranchi, in H.R.C. Revision No. 107 of 2007.

2. The dispute arose regarding fixation of appropriate rent of the premises in question which was in occupation of the Petitioner. The application u/s 5 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 was moved by the landlord in the year 2007 for fixing the appropriate rent. Notice was issued u/s 27 for exercising power under this Act. The Controller fixed the rent and the order for fixing the rent is challenged u/s 27. The appeal was allowed on 17.11.2007 and the matter was remanded before the Controller for a fresh decision.

3. It appears that the Petitioner tenant preferred a revision u/s 27 in the month of December, 2007. The order was passed on 11.12.2007 directing the government pleader for his opinion on the question of admissibility of the revision petition by the next date fixed i.e. on 22.01.2008. On 22.01.2008, the revision was admitted and Vakalatnama was also filed by counsel for the landlord and the lower court record was called for fixing 17.03.2007. Meanwhile, after the remand order passed by the appellate court, the Controller decided the matter on the limited questions and per the direction of the order passed in appeal, vide order

dated 3.12.2007, which is Annexure3 to the writ petition.

4. On perusal of the said order, it transpires that neither the tenant nor the landlord appeared. Thus, it can safely be concluded that none of them were aware that the remand order passed in appeal has already been complied with. Meanwhile, as the Revision No. 107 of 2007 was pending since a very longtime, a writ application was preferred in this Court at the behest of the landlord with a limited prayer for an expeditious disposal of the revision. This again clearly substantiate that the landlord was not aware that the remand order stood complied with and the question of appropriate rent was already decided as far back in the year 2007 itself. An I.A. was filed once again. In the pending writ petition, which was finally decided, vide order dated 26.03. 2010 directing the Commissioner to decide the pending revision within a month from the date, a certified copy of the order was presented before him. The revision was finally decided by the commissioner, vide order dated 12.07.2010 and 16.11.2010. The Commissioner was of the opinion that the revision was rendered infructuous, since the remand order in appeal was already complied with during pendency of Revision No. 107/2007. This fact came to the notice of the Commissioner after receipt of the record in the revision and the direction by this Court for an expeditious disposal of the revision. Both the orders are impugned in the instant writ petition. It is apparent that the Petitioner tenant was also unaware about the order passed by the Controller after the remand and, therefore, he was pursuing the Revision No. 107 of 2007. The order passed by the Controller as far back as on 03.12.2007, is also appellable.

5. There is no merit in this petition. I am not inclined to interfere and preempt the decision of the court below. This writ petition is disposed of with a liberty to the Petitioner to approach the appropriate forum as provided in the Act. It is evident that the appeal will be now barred by limitation and the Petitioner has an option to approach the court for condonation of delay under the Indian Limitation Act, as evidently he was pursuing another remedy.