
(2012) 07 JH CK 0075
In the Jharkhand High Court
Case No : WP (C) No. 719 of 2011

Indu Devi

APPELLANT

Vs

Hemand Kumar Poddar

RESPONDENT

Date of Decision : 24-07-2012

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 — Section 15
Constitution of India, 1950 — Article 227

Citation : (2013) 1 AJR 489 : (2012) 4 JCR 664 : (2012) 4 JLJR 124

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : A.K. Sahani, for the Appellant; Alok Lal, Santosh Kumar, for the Respondent

Judgement

P.P. Bhatt, J.—The present petition is filed under Article 227 of the Constitution of India for issuance of an appropriate writ/order/direction for quashing and setting aside the order dated 24.1.2011 passed by the learned Sub-Judge-IXth, Ranchi (Annexure-5) in Eviction Title Suit No. 13 of 2008, whereby the prayer of the Respondent (original plaintiff) made u/s 15 of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982 has been allowed directing the petitioner to pay a sum of Rs. 8,34,000/- as arrears of rent from the month of June, 1999 to December, 2011 i.e. for a total of 139 months and to pay Rs. 6,000/- per month as monthly rent from January, 2011. Heard the learned counsel for the petitioner as well as the learned counsel for the Respondent.

2. Perused the impugned order passed by the court below.

3. On perusal of the impugned order, it appears that the court below has passed an order for recovery of arrears of rent from June, 1999 till the realization of the amount. It appears that the Title Suit was filed on 17.12.2008. Therefore, in view of the provisions as contained in Section 15 of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982, the court below has not properly considered the provision as contained therein, which provides that the provision contained

therein, is a subject to law of limitation. Despite this fact, the court below has passed an order for recovery of rent from June, 1999 though, the suit was filed in the year 2008. Therefore, apparently, it appears that the court below has committed an error while passing the said order. So far as the issues with regard to relationship of landlord and tenant and determination of rent are concerned, the learned counsel for the petitioner and the learned counsel for the Respondent have submitted their arguments in detail and cited various judgments in support of their contentions.

4. The learned counsel for the petitioner while submitting his case, has referred to and relied upon the judgment in the case of Dr. Sachidanand Sinha Vs. The Collector, Patna and others,

5. The learned counsel for the Respondent, in support of his contentions, has cited the following judgments:--

(i) in the case of Mukesh Kumar Singh Vs. Parwati Devi and Others

(ii) in the case of Bishnu Kumar Choubey Vs. Shanti Devi and Another

(iii) in the case of Jaganath Prasad Vs. Santosh Kumar Sahu, and

(iv) in the case of Bishnu Kumar Choubey Vs. Shanti Devi and Another

6. The learned counsel for the Respondent tried to justify the order passed by the court below and submitted that the monthly rent was fixed at Rs. 6,000/- and a cheque of Rs. 18,000/- has been issued by the defendant in relation to the arrears of rent from the month of June, 1999 to August, 1999 and the said cheque was dishonoured and a criminal case is also filed in respect thereof. The learned counsel for the Respondent further submitted that the court below has also observed in its order that there are no materials on the record against the amount of rent as well as no any objection brought by the defendant regarding the amount of rent since there is no denial of relationship of landlord and tenant and therefore, according to the learned counsel for the Respondent, the court below has taken into consideration the above factors while determination of the rent and thereby not committed any error or illegality and therefore, according to the learned counsel for the Respondent, the intervention of this Court is not called for with regard to the determination made by the court below in assessment of rent.

7. Considering aforesaid rival submissions and on perusal of the material on record, it appears that in the written statement filed by the defendant, in Paragraph 10, the defendant has specifically denied about the fixation of monthly rent. It is also denied that it was initially fixed at Rs. 3,000/- and subsequently, it was enhanced to Rs. 6,000/-. The defendant has also denied the allegation that the defendant had issued a cheque of Rs. 18,000/- with respect to the arrears of rent for the month of June, 1999 to August, 1999. Thus, it appears that so far as the amount of arrears of rent is concerned, there are disputed questions of fact and the proper inquiry, as contemplated u/s 15 of the Bihar Buildings (Lease,

Rent & Eviction) Control Act, 1982, is required to be made by the court below before passing the order in respect of determination of rent. On perusal of the order, it appears that no such enquiry has been carried out by the court below for determination of rent and therefore, the matter is required to be remanded to the court below for this purpose.

8. Under the circumstances, the order dated 24.1.2011 passed by the learned Sub-Judge-IX, Ranchi in Eviction Title Suit No. 13 of 2008 is hereby quashed and set aside and the matter is remanded to the court below for deciding the issues involved in the suit afresh after hearing the learned counsel for the parties. The learned counsel for the parties are at liberty to place judgments cited by them before the learned court below so that the court below have an opportunity to appreciate those citations and pass appropriate order in accordance with law. The court below shall decide the case afresh on its own merit and that too without being influenced by any of the observations made in this order. With the aforesaid observations, this writ petition stands disposed of.