
(2006) 07 JH CK 0139
In the Jharkhand High Court

Maya Paul

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 26-07-2006

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 — Section 15, 15(1)

Citation : (2007) 1 JCR 479

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.N. Tiwari, J.—The petitioner, in this writ application, has prayed for quashing the Order dated 7.1.2004 passed by learned Munsif, Ghatsila in Eviction Suit No. 4 of 1993, whereby the tenant-petitioner's defence qua ejectment has been struck off as a penal consequence of delayed payment of rent u/s 15(1) of the Bihar Buildings (Lease, Rent and Eviction) Control Act (hereinafter referred to as the said Act).

2. According to the petitioner, the Court below, by Order dated 13.2.1996, passed u/s 15 of the said Act directed the petitioner to deposit monthly rent at the rate of Rs. 215/- from January, 1993. Since thereafter she has been depositing the rent regularly. It has been stated that due to non-availability of the Treasury Officer, there was delay of four days in depositing the rent of February, 2001. In the impugned order, learned Court below has noticed that the rent is to be deposited in the bank after passing the Chal-lan through the Treasury Officer and that the Challan was presented to the Court below within time, but deposit was made after about four days, the same was signed by the Treasury Officer.

3. Learned Counsel for the petitioner submitted that the petitioner has been depositing rent per month since 1996 and there has been no apse on his part except, some procedural delay, now and then and there is no deliberate delay or

default on the part of the petitioner in making payment of the rent in compliance of the order passed u/s 15(1) of the said Act. Learned Counsel submitted that the Court below has failed to appreciate that the procedural delay was beyond the control of the petitioner and erroneously held that there was delay of four days in depositing the rent of February, 2001 and that he is liable for the penal consequence.

4. Mrs. Sheela Prasad, learned Counsel appearing on behalf of the respondents, on the other hand, submitted that admittedly there is a delay of four days in actual deposit of rent for the month of February, 2001, and there is no proper explanation of such delay on record. Learned Counsel submitted that when the order has been passed u/s 15(1) of the said Act, the same shall have to be strictly complied with and having not done so, the petitioner has rendered himself liable to suffer the consequences.

5. After hearing learned Counsel for the parties and perusing the record, I find that the Court below has noticed that there is a procedure of presenting the Challan in the Court below, after passing the same and processing through the Treasury to deposit the amount in the bank. The Court below has observed that there is delay of only four days in actual deposit of rent for the month of February, 2001. It is not in dispute that the petitioner has been depositing rent in compliance of the order passed u/s 15(1) of the said Act since the year 1996; this clearly goes to show the bonafide of the petitioner. The procedural delay of about four days cannot be said to be intentional non-compliance of the Order passed u/s 15(1) of the said Act. Learned Court below has adopted hyper-technical and pedantic approach in holding the petitioner guilty of not complying with the Order passed u/s 15 of the said Act and striking off the defence of the defendant-petitioner.

6. The impugned order dated 7.1.2004 passed by the learned Munsif, Ghatsila in Eviction Suit No. 4 of 1993, as contained in Annexure 3, is mechanical, cryptic and unsustainable in law and is, hereby, quashed. This Writ application is allowed.

7. Since this case appears to be old one, learned Court below shall see that the same is disposed of as expeditious as possible.