
(2022) 08 OHC CK 0234
In the Orissa High Court
Case No : Writ Petition (C) No. 10988 Of 2015

Pitabas Sahoo

APPELLANT

Vs

Collector, Jajpur And Others

RESPONDENT

Date of Decision : 30-08-2022

Acts Referred:

Citation : (2022) 08 OHC CK 0234

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : J. R. Dash, T. Pattanayak

Final Decision : Dismissed

Judgement

Arindam Sinha, J

1. Mr. Dash, learned advocate appears on behalf of petitioner and submits, his client was evicted and subsequently rehabilitated in respect of occupation of the shop room under agreement dated 28th January, 2005. He points out from the agreement, Rs.23,000/- was paid as application fee, of which Rs.5000/- retained as security. Licence fee was Rs.400/- per month for period of 10 years with enhancement of 10%, every 10 years. He draws attention to paragraph 5 in the writ petition and relies upon following therein, is extracted and reproduced below.

"The petitioner since was interested for renewal at the right point of time approached the authority for renewal and he was told to come subsequently and accordingly he on deposit of license fees, subsequently occupied the shop room beyond the stipulated period also."

2. He submits, the authority acted in illegal and coercive manner. His client filed application being misc. case no.10718 of 2015. There was order dated 25th June, 2015, passed by coordinate Bench directing his client to deposit Rs.15,000/- towards security deposit and for petitioner to go on paying current rent without prejudice to rights and contentions of parties. Impugned annexure-7 was thereby

stayed. He submits, there was further interim order passed by another coordinate Bench on 23rd February, 2016, restraining allotment of the shop to any other person.

3. The authorities refused to accept tender of Rs.400/- per month. Instead they coerced petitioner to pay Rs.1000/- per month. On query from Court Mr. Dash submits, direction in order dated 25th June, 2015 was accepted by his client and his client also did not seek interference by Court on the wrongful demand and recovery of Rs.1000/- per month from his client.

4. Mr. Pattanayak, learned advocate, Additional Standing Counsel appears on behalf of State and relies on paragraph 5 in the counter to submit that petitioner along with other shopkeepers did not apply for renewal of their licences during specified period (i.e., 90 days prior to expiry of licence period) mentioned in the agreement nor even after expiry. Hence, the agreement stood terminated by efflux of time. Since it was a rehabilitation scheme, petitioner is still welcome to come forward and execute fresh agreement, on fresh terms for continuing with the shop.

5. Petitioner's averment in paragraph 5 regarding being interested for renewal at the right point of time and having approached the authority has not been denied in paragraph 8 of the counter. Instead, the deponent (Block Development Officer) has asserted that the licence was cancelled. On query from Court, Mr. Pattanayak submits, there was no cancellation. The licence expired by efflux of time.

6. It does appear from the agreement that a sum larger than what was required to be put in as security was obtained by the authority, as application fee. Therefore, Court accepts further contention of petitioner that on eviction the shops were constructed by money obtained from applicants. Rs.5000/- was said to be kept as security and license fee fixed at Rs.400/-per month, for 10 years with enhancement at 10% every succeeding 10 years.

7. Materials on record do not show there has been any further infrastructure development by the authority to plead change of circumstances for demanding more than what was agreed at the time the licence was granted. However, on expiry of the licence and there being no fresh executed licence, as renewal thereof, petitioner accepted direction for payment of additional Rs.15,000/- as security. The payment and acceptance of monthly licence fee at current rate (Rs.400/- per month) appears not to have been accepted by the authorities and petitioner, there too, paid enhanced licence fees of Rs.1000/- per month. In the circumstances, Court is inclined to direct the authorities to enter into fresh agreement forthwith, being renewal of the last agreement as novated on security deposit for Rs.20,000/- (Rs.5,000/- paid earlier and subsequently Rs.15,000/- pursuant to direction of Court) and monthly licence fee at Rs.1000/- for block period of 10 years commencing from date, when petitioner commenced paying Rs.1000/- per month, with 10% increase every subsequent 10 years. However, Mr. Dash wants to withdraw the petition at this stage, after the order has been

dictated.

8. The writ petition is dismissed. All interim orders passed earlier stand vacated.

.....