
(2004) 02 PAT CK 0084
In the Patna High Court
Case No : C.W.J.C. No. 5710 of 2003

Raghunath Jha Raja

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 03-02-2004

Acts Referred:

Citation : (2004) 2 PLJR 805

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Pramod Mishra, for the Appellant; V.N. Sinha and Birendra Kr. Verma, for Respondents 6 and 7, for the Respondent

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated 13.5.2003, passed by the Sub-divisional Officer, Phulparas in Misc. Case No. 12 of 2002 whereby he has directed the persons mentioned in the order to vacate the shop/house failing which it has been directed that they shall be evicted by the use of force and handed over to its owner Respondent Nos. 6 and 7.

2. This order is purported to have been passed by the Sub-divisional Officer in exercise of power conferred under the Bihar Building (Lease, Rent and Eviction) Control Act (hereinafter referred to as the Act).

3. Mr. Mishra appearing on behalf of the Petitioner submits that the Sub-divisional Officer has no such power under the said Act. J.C. to G.P. IX and Mr. Verma appearing on behalf of Respondent Nos. 6 and 7 concede that the Sub-divisional Officer has no authority to pass the said order under the provisions of the Act. However, they contend that this shall not preclude the Sub-divisional Officer to proceed against the Petitioner or for that matter any other person in accordance with law.

4. As the order impugned has been passed without any authority of law same

cannot be allowed to stand. However, this will not preclude the Sub-divisional Officer to exercise its power under any other statute if available to him. It is made clear that I have not adjudicated upon the right, title, and interest of the parties in the present proceeding.

5. In the result this application is allowed and the impugned order dated 13.5.2003 (Annexure-5) is quashed with the liberty aforesaid.