
(2016) 12 JH CK 0065
In the Jharkhand High Court
Case No : W. P. (C) No. 7125 of 2016

Ram Kisun Jouhary

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 16-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Jharkhand Buildings (lease, Rent And Eviction) Control Act, 2000 — Section 37

Citation : (2017) 2 AIRJharR 735

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : M/s Parth S. A. S. Pati, Advocate, for the Petitioners; JC to GA-IV, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.—Surviving defects are ignored.

2. Heard learned for the petitioner and the State.

3. This writ petition is being disposed of without getting into the merit of the matter at this stage in view of the order proposed to be passed hereinafter:-

Petitioner apprehends his dispossession in pursuance of the Execution Case No. 29 of 2016 arising out of HRC Case No. 28 of 2015. Petitioner has lost in House Rent Control Case No. 28 of 2015 before the Original Authority i.e. Rent Controller-cum-Sub-Divisional Magistrate, Jamshedpur, Annexure-1 is the order dated 26.12.2015. He has also lost in appeal preferred thereafter before the Deputy Commissioner, East Singhbhum, Jamshedpur in HRC Appeal No. 58 of 2015-16 vide order dated 22.11.2016, Annexure- 2. Revisional remedy invoked by him under Section 37 of the Jharkhand Building (Lease, Rent & Eviction) Control Act, 2011 before the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa i.e. HRC Revision No. 16 of 2016, Annexure-3 is pending for consideration. However the post of Divisional Commissioner, Kolhan Division,

Chaibasa is being held in additional charge by an officer, who is holding the charge of three more divisions, i.e. North & South Chotanagpur Division as well as Santhal Pargana Division apart from the charge of Chairman of J.C.E.C.E Board. In the midst thereof, the private respondent-Landlord has sought execution of the order passed by the Rent Controller in Execution Case No. 29 of 2016 in which the petitioner has already appeared and filed his show cause. Learned counsel for the petitioner submits that there are likely chances that the petitioner may be evicted from the premises in question without getting an opportunity to avail of the revisional remedy or to obtain an interim protection from the Revisional Authority due to the aforesaid reasons. Therefore, petitioner has to approach this Court in the present writ petition. It is also submitted that considering the peculiar situation that has arisen on account of the fact that same officer, Dr. Pradeep Kumar, I.A.S has been holding the charge of four Divisions apart from the charge of Chairman of J.C.E.C.E Board, this court in W. P. (C) No. 5516 of 2016 along with other analogous cases was pleased to direct the respondent-State to come out with their stand in the matters. Upon consideration of the stand brought on record in the said matters that suitable IAS officers of the equivalent rank would be posted on the post of Divisional Commissioner of the respective Divisions in regular capacity on or before 2nd week of January, 2017, this Court was pleased to dispose of the writ petitions giving liberty to the said petitioners to approach Revisional Authority by 21.01.2017 while granting interim protection in some of those matters till 27.01.2017 vide order dated 14.12.2016. It is submitted that the instant matter can also be disposed of in that light.

4. Learned counsel for the State submits that instruction in the instant matter has not been received. Learned counsel for the State, however, also does not dispute that this Court vide judgment dated 14.12.2016 in W. P. (C) No. 5516 of 2016 along with other analogous cases in similar circumstances has directed in the aforesaid manner. It is also submitted that no order, however, need to be passed on merits as the private respondent has not yet been heard herein.

5. I have considered the submissions of the learned counsel for the petitioner and the State in light of the relevant material facts pleaded.

6. Considering the unique situation that has come on account of the fact that same officer is holding the post of four Divisional Commissioners apart from holding the charge of Chairman of J.C.E.C.E Board, the apprehension of the petitioner cannot be said to be misplaced. Petitioner, however, in such circumstances, cannot be rendered remediless also. Therefore, on consideration of the relevant attendant facts noticed herein above and the peculiarity of the situation presented, this Court is inclined to grant interim protection to the petitioner till 27.01.2017 from any coercive steps being taken pursuant to Execution Case No. 29 of 2016 pending before the respondent no. 4, Sub-Divisional Magistrate-cum-Rent Controller, Jamshedpur. Petitioner is at liberty to approach respondent no. 2, Commissioner (Singbhum) Kolhan Division, Chaibasa/

Revisional Authority in the meantime by 21.01.2017 as directed in the writ petitions being W. P. (C) No. 5516 of 2016 and other analogous cases.

7. Let it be made clear that this Court has not gone into the merits of the case of the parties, more so in view of the fact that the private respondent has not been heard in the matter. The writ petition is, accordingly, disposed of.