

(2002) 04 JH CK 0030

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1896 of 2002

Shyam Sundar Agarwal and Others

APPELLANT

Vs

Jharkhand State Agricultural Marketing Board and Others

RESPONDENT

Date of Decision : 16-04-2002

Acts Referred:

Citation : (2002) 04 JH CK 0030

Hon'ble Judges : Tapan Sen, J

Bench : Single Bench

Advocate : Lalit Kumar Lal and Praveen Akhouri, for the Appellant; V.P. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Tapan Sen, J.—In this Writ Application the petitioners have made a prayer for quashing the letter dated 8.2.2002 (Annexure-6, series) issued by the respondent No. 4 (The Secretary, Agricultural Produce Market Committee. Bokaro at Chas). whereby and whereunder the demand of arrears of rent for the period January, 1990 to December, 2001 has been enhanced and that too with retrospective effect with a direction upon the petitioners to deposit the balance of the arrears calculated at such enhanced rate, within one week, failing which it has been threatened that the same would be recovered under the Bihar Public Demands Recovery Act and that the lease would not be renewed any further and necessary steps would be taken for cancellation of the lease agreement. The petitioners have made a further prayer for issuance of a writ of mandamus commanding upon the respondents to adhere to the terms of the Lease Agreement and renew the lease in accordance with law after giving adequate opportunity to the petitioners.

2. The petitioners have stated that they were all allotted different shops-cum-godown of the sizes ranging between 700 sq. feet to 900 sq. feet on a rental of Rs. 165/- and 220/- respectively. Pursuant thereto Lease Deeds were executed, one of which has been brought on record as Annexure-1 and the shops in

question were leased out/handed over to the petitioners. The petitioners carried on business and regularly paid their rent till 31.3.1998 and the same was received by the office of the respondent No. 2. who also issued rent receipt, some of which has been brought on record by Annexure-2 series.

3. Suddenly, on 16.3.1998. the respondent No. 4 (The Secretary, Agricultural Produce Market Committee. Bokaro at Chas) issued a letter informing all the allottees that pursuant to a letter, dated 5.2.1998, issued under Memo No. 5097, the rent of the shop building-cum-godown had been fixed at the rate of Rs. 3/- per sq. feet with effect from 1.12.1997 and the rent should be paid at such enhanced rate. The photocopy of the said letter is Annexure- 3 to the Writ Petition. According to the petitioners, they requested the respondent No. 4 by Annexure-4. by their representation dated 30.8.1998, to accept the existing rent and protested to the enhancement stated above. The petitioners have also stated that in the mean time the respondents also continued to accept rent as per the old rate fixed under the terms of the Lease Agreement even after issuance of the notice dated 16.3.1998. and therefore, according to the petitioners, the letter dated 16-3.1998 would be deemed not to have been given effect to.

4. Subsequently a fresh Notice, dated 8.2.2002. was issued (the impugned Notice/ Letter), which has been mode Annexure-6, which, according to the petitioners, is a violation to the terms and conditions to the Lease Agreement and that the respondents having accepted rent till December. 2001 at the old rate, cannot raise or make a demand for arrears at a enhanced rate. According to them, they have also no jurisdiction to enhance the rent unilaterally by about 800 to 900% of the existing rate and that they are bound to follow the Law which is in existence i.e. the BBC Act, 1982 and the enhancement can be made only on the basis of the aforesaid statute.

5. According to Mr. V.P. Singh. learned counsel for the respondents, there is no illegality in the impugned order and the Market Committees have the right and authority to enhance occupation charges also. He also states that the enhancement is a feature which is inherent in the right to charge and that the occupation charges cannot be allowed to remain static. In support of the aforementioned contention Mr. V.P. Singh has relied upon a Division Bench Judgment of this Court passed in LPA Nos. 590. 797 and 790 of 2001 and 6/2002 reported in 2002 (1) JLJR 605.

6. I have gone through the aforementioned Judgment of the Hon"ble Division Bench and in view of the reasonings given therein, this Court also holds that the enhancement made by reason of the impugned Notice does not suffer from any arbitrariness and they are also not illegal.

7. In that view of the matter, this Writ Petition is dismissed.