
(2001) 12 PAT CK 0001
In the Patna High Court
Case No : L.P.A. No. 1257 of 2001

Subodh Kumar Singh

APPELLANT

Vs

The Stale of Bihar and Others

RESPONDENT

Date of Decision : 10-12-2001

Acts Referred:

Citation : (2002) 1 PLJR 366

Hon'ble Judges : Ravi S. Dhavan, C.J.;Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Tuhin Shankar, for the Appellant; A.P. Jittu, for the Respondent

Final Decision : Allowed

Judgement

1. Nothing need to be written in much detail except that this is a sad story of the State of Bihar being a tenant of one Subodh Kumar Singh, the Petitioner. The State of Bihar was in default of payment of rent of an accommodation utilised without payment of rent. The Petitioner complained to the High Court ,by this petition on this arbitrary action submitting that if the State has taken his accommodation then he should not be relegated to an alternate remedy of filing a suit when there is no issue on the fact that there was a landlord and a tenant and further there was no issue that the accommodation was utilised and the rent was not paid.

2. The writ petition initially noticed the aspect that rent was due but left the order on the step that lent would be payable when fund is available. Submission of the State was accepted that as and when the fund is available then rent would be paid to the landlord. Here, this Court felt that the Court deciding the writ petition erred that having come to the conclusion that rent was due from the State then the payment of it should not depend upon the vagaries on the fund being available. Clearly, the State was obliged to make payment of rent to the landlord month to month. In the circumstances, the order on the writ petition dated 30 August, 2001 is set aside.

3. This Court called upon the State of Bihar to clear the arrears as it was accepted before the Court that there was an agreement of a landlord and a tenant; the State had utilised the accommodation; that rent for use and occupation of the accommodation had not been paid and that the State was admittedly in arrears. On this aspect there was no issue even before learned Judge who was deciding the writ petition. Thus, the State was directed to clear the arrears on a date indicated to the Court. On that day also some excuse was being made on not being able to make the payment. The Court indicated that any delay would now have to be reckoned with the payment of rent with 10 per cent simple interest on the rent due. On two dates, i.e., 5 December, 2001 and 6 December, 2001 learned Counsel appearing on behalf of the State, Standing counsel No. 2, sought an adjournment to ensure that rent is paid to the landlord. Today, a statement has been made along with an affidavit of the Executive Engineer, National High Way Division, Lakhisarai that the rent against the accommodation has been paid with 10 per cent interest. Counsel for the Petitioner-Appellant acknowledges that the rent with interest has been received.

4. Thus, this appeal succeeds. As interest has been paid against the arrears of rent, there will be no costs on this appeal.

5. Appeal allowed.