(1985) 05 PAT CK 0033

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No''s. 591, 104 and 105 of 1970 (R)

Suryakant Bhagwanjee APPELLANT

Vs

Commissioner, South Chhotanagpur Division, Ranchi and others RESPONDENT

Date of Decision : 17-05-1985

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 — Section 14, 14(1), 14(2)

Citation : (1985) PLJR 238

Hon'ble Judges : U. P. Singh, J

Bench : Single Bench

Advocate : S. C. Ghosh, N. K. Prasad, R. N. Mukherjee and Mrs. Jaya Roy, for the Appellant; T. K. Das (S. C.) and Mrs. M. M. Pal ., for the Respondent

Judgement

Udai Pratap Singh, J.—The question involved in these batch of cases being common, they have been heard together and are being disposed of by this judgment. The order under challenge is Annexure-3 passed by the House Controller u/s 14 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947. The order in appeal is Annexure-4 passed by Deputy Commissioner and the order in revision passed by the Commissioner are Annexures 5 and 5(A). The Rent Controller held that respondent no. 4 had paid the rent for the months of July to November 1974 but the petitioner failed to grant receipts. He, therefore, directed the petitioner to grant receipts to respondent no. 4 for the months of July to November 1974. On appeal it was upheld by the Deputy Commissioner and the revision preferred before the Commissioner was also dismissed.

2. In an application filed by respondent No. 4 before the Bihar Buildings (Lease Rent and Eviction) Control Act (in short the Act) it was alleged that some time in May 1975 his firm M/s Chhaganlal Dayalji was a monthly tenant of the petitioner in respect of a shop located in a room inclusive of an inner varandah, where the respondents firm carried on the business. As usual the rent was paid for the months of July to November 1974 but the petitioner did not grant the receipts for

the amount paid as rent. The petitioner filed show cause before the Rent Controller alleging that the said firm of respondent no. 4 was in arrears of rent since July 1974 and inspite of repeated demands, the rent was not paid and, therefore, the question of granting receipts did not arise. The Rent Controller sent the matter for enquiry to one Executive Magistrate at Jamshedpur who submitted his report in March 1976. Relying on the report of the Executive Magistrate, the Rent Controller held that the rent for the period has been paid but the receipts were not granted. The Rent Controller, therefore, directed the petitioner to grant receipts for the months of July to November 1974, As stated earlier the appeal preferred against the order was dismissed by the Deputy Commissioner and the revision preferred before the Commissioner was also dismissed.

3. The contention raised by Mr. Ghosh the petitioner''s counsel are (a) that the Rent Controller acted beyond jurisdiction and in contravention of Clause 2 of section 14 of the Act in referring the summary enquiry to an Executive Magistrate, (b) that the landlord''s failure to grant receipts would attract the penal clause of section 14(2) of the Act, and the Rent Controller had no jurisdiction directing the grant of receipts and (c) that the Rent Controller did not consider whether the complaint was Sled within three months from the date of failure to deliver the receipts in other words, if the failure to deliver the receipt was in respect of the month of July, 1974 could the complaint be filed in January 1975.

4. Mr. Chatterji, learned counsel for the respondent no. 4 contended that the Rent Controller did not act beyond jurisdiction in referring the summary enquiry to the Executive Magistrate and under Clause 2 of Section 14, the imposition of fine on the landlord for his failure to deliver the receipt to the tenant is an additional burden, the primary being to grant receipt.

5. In order to appreciate the questions raised, it is relevant to notice the provisions of Section 14(1) and (2) of the Act:

14 : Tenant making payment of rent entitled to receipt:

(1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain, forthwith from the landlord a receipt in the prescribed form for the amount of rent paid by him duly signed by the landlord or his approved agent.

(2) If a landlord, without reasonable cause fails to deliver to the tenant receipt, as required by sub-section (1) such landlord shall be liable to fine not exceeding double the amount of rent so paid, to be imposed after summary enquiry by the Controller upon a complaint of the party aggrieved within three months from the date of such failure.

6. On a plain reading of Clause (2) of section 14 the Controller is conferred with the jurisdiction to act upon a complaint made to him by the party aggrieved.

Such a complaint has to be filed within three months from the date of failure on the part of the landlord to deliver to the tenant a receipt as required by sub-section (1) of section 14. Upon receipt of such complaint, the Controller has to hold a summary enquiry and then impose upon the landlord a fine not exceeding double the amount of rent so paid. Thus the summary enquiry in regard to the failure of landlord to deliver to the tenants receipt without any reasonable cause has to be conducted by the Controller on a complaint made to him. It is well known principle that a statutory body created under the statute has to act in the manner prescribed therein. Reading clause (2) of section 14, the Rent Controller in the present case, acted beyond jurisdiction, in referring the summary enquiry to another Magistrate. Further if the Controller found, that landlord failed to deliver to the tenant the receipt without any reasonable cause as required by sub-section (1), the Controller had to impose a fine upon the landlord not exceeding double the amount so paid. Once the landlord is found to have failed to deliver the receipt to the tenant without reasonable cause, he makes himself liable for the imposition of such fine and after a summary enquiry into such failure, the Controller has to impose fine envisaged by Clause (2). Therefore, the contention of Mr. Chatterji that the imposition of fine is an additional burden, the primary being to grant receipt, cannot be accepted.

7. The third contention raised by Mr. Ghosh, learned counsel for the petitioner has also to be accepted because in the present case the Controller did not consider the question of limitation. The period to entertain a complaint by an aggrieved party under Clause (2) of Section 14 is within three months from the date of failure of the landlord to deliver the receipt to the tenant. In the present case, admittedly the receipts had not been granted for the months of July to November, 1974 and the complaint was filed in January, 1975. Therefore, whether the complaint was filed beyond the period of limitation, had to be determined by the Controller. The Controller has not considered this aspect of the matter.

8. In this view, the orders contained in Annexures 3, 4, 5 and 5(A) passed by the Controller, the Deputy Commissioner and the Commissioner respectively are quashed. The matter is remitted back to the Controller to consider the matter afresh in accordance with law, after hearing both the parties. The parties would be at liberty to adduce such evidence which may be necessary in the interest of justice. With the direction indicated above, these writ applications are disposed of, but there will be no order as to costs.

