

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14107 of 2011

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1. Devendra Sah @ Devendra Sahu S/O Late Suba Lal Sah R/O Vill.- And Post-Bhagatpur, P.S.- Balia, District.-Begusarai

.... Petitioner/s

Versus

1. The State Of Bihar Through S.D.O, Balia, Begusarai
2. The Circle Officer, Balia, District.- Begusarai
3. Rajyakrit S.A.S High School, Balia, District.- Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AJAY KUMAR SINHA

For the Respondent/s : Mr. AMAR NATH DEO SC26

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 28-09-2015

Heard Mr. Ajay Kumar Sinha for the petitioner and the Counsel
for the State.

The petitioner claims to have been inducted as tenant in one of the shops constructed by the respondent Rajyakrit S.A.S. High School, Balia, a Government High School. In the impugned series of notices (Annexure-3, 4 and 6) issued by the respondent Circle Officer as well as Headmaster/Principal of the School, the petitioner has been called upon to vacate the shop failing which steps shall be taken for his forcible eviction. On the strength of Annexure-1/1, it has been submitted that the petitioner was inducted as tenant in one of the shops @ 330/- per month by the respondent Principal/Headmaster. It is stated that no proceeding under any of the Act has been initiated in which the petitioner has been noticed to appear.

In paragraph 13 of the counter affidavit, the respondents have

stated that matter regarding eviction of the petitioner from the shop is pending before the Sub Divisional Officer, Balia and in the light of the order passed by the Sub Divisional Officer, in the said proceeding, the impugned notice has been issued.

To controvert the aforesaid statement, a supplementary affidavit has been filed by the petitioner. In paragraph 4 thereof, it has been reiterated that no such proceeding is pending before the Sub Divisional Officer who is said to be the competent authority in which the petitioner has been issued notice to appear and file response inasmuch as there is no reference of any pending case in the impugned notice.

Counsel for the State, on the basis of pleadings on record, is unable to justify the issuance of the impugned notice. If any person is required to be evicted who has been lawfully admitted as a tenant then there is provision under the diverse Act to do so. From the counter affidavit, it does not appear that any such step was taken by the respondents.

In this view of the matter, the impugned notice is quashed. The order present shall, however, not preclude the respondents from taking fresh steps in accordance with law for eviction of the petitioner from the shop in question, if deemed necessary.

(Kishore Kumar Mandal, J)

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