

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2683 of 2013

=====

Jagat Narayan Prasad S/O Late Yadunandan Das R/O Village- Shivganj
Dehri, P.S.- Dehri, District- Rohtas

.... Petitioner.

Versus

Vishwanath Prasad Sarawagi S/O Late Shankar Prasad Sarawagi R/O
Village- Cinema Jaihind Bishwanah Prasad Bhawan, Dehri-On-Son, P.S.-
Dehri-On-Son, District- Rohtas

.... Respondent.

=====

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Singh

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

4 01-12-2015

Heard the learned counsel for the parties.

With the consent of the parties, this writ application is disposed of
at this stage.

By the impugned order in question, the
learned court below has directed the defendant-petitioner to
deposit the arrears of rent and current rent as claimed by the
plaintiff.

The suit has been filed by the plaintiff for
eviction of the defendant and claiming the arrears of rent as
mentioned in scheduled of the plaint. During the pendency of the
suit, the plaintiff filed a petition under Section 15 of the Bihar
Building (Lease, Rent & Eviction) Control Act, in short as B.B.C.
Act for a direction to the defendant to deposit the arrears of rent

and current rent. The present writ application has been filed by the defendant-petitioner on the basis that the claim of the plaintiff regarding the enhancement of rent from time to time and finally to Rs.1800/- per month is not correct. It has also been the assertion on behalf of the petitioner that the learned court below has not given any finding regarding the "last paid rent" before passing the direction under Section 15 of the B.B.C. Act inasmuch as the said finding was a precondition for such direction.

The learned counsel for the parties have made their submissions in support of their respective stands in the court below but finally a joint prayer has been made to dispose of this application with direction to the defendant to deposit the arrears of rent from month of September 1991 up-to-date @ Rs.500/- per month and continue to deposit the said amount as current rent per month as well in accordance with law. It has also been agreed by the learned counsel for the parties that the September 1991 is the date from which the arrears in payment of rent has become due. The learned counsel appearing for the petitioner, however, has also pointed out that some amount has already been paid by the defendant-petitioner to the plaintiff, and therefore has prayed that the said amount should be adjusted. The learned counsel for the plaintiff-respondent has not raised any objection to this prayer.



In view of the aforesaid stand and agreement on behalf of the parties, the writ application is disposed of with a direction to the defendant-petitioner to deposit the arrears of rent from September 1991 up-to-date @ Rs. 500/- per month and to continue to deposit the current rent at the said rate. The amount which has been admitted to have been paid by the defendant, as mentioned in the schedule of the plaint shall be adjusted in the total amount of arrears of rent from September 1991 up-to-date and the defendant is directed to deposit the remaining amount in the court as directed in the impugned order which is modified to the aforesaid extent. It is made clear that the amount so deposited by way of arrears of rent and current rent shall not be withdrawn by the plaintiff except under the orders of the court, till the final decision of the suit.

Accordingly, the petitioner is directed to deposit the amount of arrears of rent as afore-noticed within 6 months from toady and shall be at liberty to pray for appropriate installment before the learned court below which may fix the installment in accordance with law/rules.

The learned counsel for the plaintiff-respondent has expressed his anxiety for early disposal of the eviction suit and has pointed out that this Court has already issued

direction in this regard by order dated 19.02.2013 where it has been clarified that there was no stay of the proceeding of the execution case. The learned counsel for the defendant-petitioner has also prayed for direction to the court below for early disposal of the suit.

It is apparent that the suit for eviction has been filed in the year 2007 and it has remained pending since then. In this fact situation, the learned court below is directed to expedite the disposal of the suit and make all endeavour to dispose of the same within one year from the date of receipt/ production of a copy of this order.

The writ application is accordingly, disposed of with aforesaid directions.

(V. Nath, J)

Nitesh/-

U			
---	--	--	--