

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10393 of 2013

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Ashok Kumar Singh, son of Late Awadhesh Kumar Singh, resident of
Mohalla - Dahiyawan Tola, North of Railway Line, Police Station - Chapra
Town, District - Saran

.... Petitioner

Versus

1. The State of Bihar through the Collector Saran, Chapra
2. The Collector, Saran at Chapra (Appellate Authority Against Rent
Controller)
3. The Programme Officer, Chapra Collectorate, Saran, Chapra
4. The C.D.P.O. Rural Sadar Chapra
5. S.D.O. Chapra Sadar –cum- Rent Controller, Saran At Chapra

.... Respondents

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 04-08-2015 Heard learned counsel for the petitioner and learned
AC to GA-10.

The petitioner, who is a landlord and in whose premises one of the wings of the Government of Bihar is running Office of the Child Development Project, Chapra Rural, has approached this Court, invoking its writ jurisdiction under Article-226 of the Constitution of India with a prayer to quash an order dated 04.08.2010 passed by the Collector, Saran at Chapra (Respondent no.2), whereby he has admitted the appeal i.e. Rent Control Appeal no.3 of 2010 after condoning delay and directed for staying of the order dated 24.11.2003 passed by the House

Controller, Saran at Chapra in House Rent Control Case No.5 of 2003.

Short fact of the case is that the petitioner had let out his residential premises, bearing Holding no.11, Ward no.19, Circle no.17, situated in Mohalla-Dahiyawan Tola, Town Chapra in the district of Saran for running the office of the Child Development Project, Chapra Rural. The premises was let out on 01.12.2002. Subsequently, Respondent no.4/ Child Development Project Officer filed an application for fixation of fair rent before the House Controller and, as such, the case vide House Rent Control Case no.5 of 2003 was initiated. In the said case after obtaining report from the Circle Officer, which suggested that the fair rent would be Rs.3870/-, the House Controller fixed the rent @ Rs.3800/- per month only. It is the case of the petitioner that even after the order of the House Controller rent was not paid in terms of the order of the Rent Controller, rather it was enhanced from Rs.1200/- to 3000/- and that rent was paid up to the February 2007. However, subsequently without any rhyme and reason, the payment of rent was stopped. Thereafter, the petitioner was constrained to file Execution case vide Execution Case no. 4/10 under Section 23 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982. Thereafter, new incumbent i.e. the Child

Development Project Officer filed an appeal before the Collector, Saran vide House Control Appeal no.3/10 and the District Collector has admitted the appeal after condoning the delay, which is under challenged in the present writ petition.

Learned counsel for the petitioner submits that in the petition filed along with appeal for condoning delay, unsustainable stands were taken by the Child Development Project Officer. Virtually, she had made frivolous allegation against the then Child Development Project Officer and also Circle Officer. He submits that the appeal was preferred after about seven years from the order of the House Controller that too after the execution case was filed by the petitioner. It has been argued that once the appeal was barred by limitation, the appellate authority at least without notice to the petitioner was not at all authorized to admit the appeal.

Learned State Counsel has opposed the prayer of the petitioner. He submits that of course delay had occurred, but along with appeal limitation petition was filed. However, he has not disputed the fact that limitation was condoned without notice to the petitioner.

In view of facts and circumstances, particularly, the fact that rent was fixed on the prayer made by the Child Development Project Officer and that too said order was passed by

the House Controller in the year 2003 without any notice to the petitioner, the appellate authority was not justified to condone delay and admit the appeal. In any event, the learned Collector was not authorized to admit appeal and pass order of stay of the order of the House Controller. In view of the facts and circumstances, the Court is of the opinion that the order impugned is liable to be set aside.

Accordingly, the order dated 04.08.2010 passed by the District Collector, Saran at Chapra in Rent Control Appeal No.3 of 2010 is hereby set aside. The writ petition stands allowed.

(Rakesh Kumar, J)

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