

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5641 of 2014

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Narendra Singh S/O Late Vishwanath Singh, Resident of Mohalla- Gandhi
Maidan Siwan P.S. Siwan Nagar, District Siwan, present at Resident D.V.C.
at Chandrapura (Bokaro) Jharkhand

.... Petitioner

Versus

1. The State of Bihar through the Collector, Siwan
2. The District Magistrate, Siwan District Siwan
3. The Sub Divisional Officer -cum -House Controller, Siwan District Siwan
4. Dr. Rakesh Kumar @ Rajesh Kumar S/O Sri Radha Sharan Singh, Proprietor Chandra Dental Hospital, Resident of Mohalla Gandhi Maidan P.S. Siwan Nagar, District Siwan

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Krishna Bihari, Adv.

For the Respondent/s : Mr. Akhilesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 13-04-2016 Heard Sri Krishna Bihari, learned counsel for the petitioner and Sri Akhilesh Kumar, learned counsel, who has appeared on behalf of Respondent no.4/ tenant).

The petitioner /landlord has approached this Court, invoking its writ jurisdiction under Article 226 of the Constitution of India , with a prayer to quash an order dated 28.08.2007 passed by the learned Sub Divisional Officer-cum- House Controller (Respondent no.3) in House Rent Fixation Case no.4/2007-08, which was filed by Respondent no.4 with a prayer to direct the landlord i.e. the petitioner to open the lock, which was put in the premises under the occupation of the tenant/Respondent no.4. The

petitioner has also prayed for quashing of the order dated 09.10.2012 passed in Misc. Case no.33/2007-08, whereby the appeal preferred against the order of the Sub Divisional Officer stood dismissed.

Learned counsel for the petitioner submits that the learned Sub Divisional Officer even after noticing the report of the Executive Magistrate vide letter no.13 dated 15.02.2007, which was furnished in the proceeding, has passed impugned order. By way of referring to Annexure-3 to the writ petition, learned counsel for the petitioner tried to persuade the Court that Respondent no. 4 was in occupation of the premises one year back from the date of inspection by the learned Magistrate. He further submits that even at the time of enquiry, save and except one room, other premises is in occupation of the mother of the petitioner and, as such, he makes a prayer for quashing the impugned order.

Learned counsel for the Respondent no.4 submits that even against the order of the appellate authority, there was remedy available to the petitioner to avail revision. However, without exhausting the statutory remedy, the petitioner has approached this Court. He further submits that the learned Magistrate has rightly exercised power under Section 10 of the Bihar Building (Lease,

Rent and Eviction) Control Act, 1982. It has further been argued that even during inspection the learned Magistrate has found the premises in possession of the petitioner, which was found locked and it was locked by the landlord. He submits that due to unauthorized action of the landlord, the Respondent no.4 has suffered a loss. His valuable equipment, which were being used in clinic of the petitioner, is simply being destroyed due to the reason that the room is locked.

After hearing learned counsel for the parties and considering the facts and circumstances of the case, I do not find any ground to interfere with either of the orders. The writ petition stands dismissed.

(Rakesh Kumar, J)

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