

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6737 of 2016

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Dilip Kumar Agrawal Son of late Girdhari Lal Agrawal R/o Janta Fancy
Vastralaya, Managal Bazar, Katihar, PS+ District Katihar.

.... Petitioner/s

Versus

1. Dr. Praveen Chandra Son of Sri Kamakhya Prasad Resident of Mohalla-
Jagarnathpuri Baramasia, PS+ District Katihar.
2. Kamakhya Prasad Son of late Kunj Bihari Lal Resident of Mohalla-
Jagarnathpuri Baramasia PS+ District Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand

For the Respondent/s : Mr. Gyan Prakash Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 17-05-2017

Heard Mr. Anand for the petitioner and Mr. Ojha for the
respondent-landlord.

The tenant of private respondent(s) is the petitioner. The
landlord-respondent(s) approached the House Controller for fixation of
fair rent. Under order dated 19.02.2008, the House Controller fixed
different fair rent for the ground floor and first floor of the demised
premises in occupation of the writ petitioner. An appeal was preferred
thereagainst by both the landlord and the writ petitioner/tenant. By order
dated 10.11.2009 both the appeals were considered and disposed of by
the appellate authority. The fair rent of the tenanted premises was fixed
at Rs. 6/- per sq. ft. for the ground floor and Rs. 4 sq. ft. for the first
floor.

Dissatisfied therewith the tenant/ writ petitioner filed
revision before the Commissioner. Vide order dated 09.02.2011
(Annexure-2) the Commissioner set aside the order and remanded the



case to the appellate authority for fresh consideration and disposal. The appellate authority by an order dated 19.12.2014 (Annexure-3) disposed of the pending application(s) and directed the tenant to pay fair rent at the rate of Rs. 10/- per sq. ft for the ground floor and Rs. 8/- per sq. ft. for the first floor. The appellate authority, however, clarified that the payment of rent at the rate fixed by it shall be made in favour of the landlord-respondent w.e.f. 01.04.2012. The dues outstanding against the petitioner- tenant for the tenanted premises shall be paid to the landlord-respondent at the rate earlier fixed by the appellate authority up to 31st of March, 2012. Without paying the said amount the petitioner again filed a revision application vide Revision No. 56 of 2015 in which a petition was filed for staying the order directing payment of rent at the rate(s) fixed by the appellate authority. The revisional authority rejected the said prayer against which the petitioner filed a writ petition which was rejected. Against the order passed on his writ petition the petitioner filed Letters Patent Appeal which, however, was got withdrawn as having become infructuous. In the meantime, it appears, on 03.03.2016 the revisional authority having found that in spite of repeated orders the revisionist petitioner- (writ petitioner) had not complied with the order passed by the revisional authority rejected the Revision No. 56 of 2015 for non -compliance of these orders. Against that order of the revisional authority the present writ application has been filed.

Mr. Ojha appearing for the tenant-petitioner has stated that till date the petitioner has not complied with the order dated



19.12.2014 (Annexure-3) as the entire dues of the tenant-petitioner has not been paid as wrongly claimed by the respondent-landlord.

Mr. Anand after making submissions at some length, states that the petitioner-tenant shall comply with the order dated 19.12.2014 (Annexure-3) which was directed to be complied with by the revisional authority provided the Revision application filed by the petitioner is restored on the file of the revisional authority for consideration and disposal on merit in accordance with law.

Having regard to the aforesaid stand taken by the petitioner, the writ application is disposed of by the following order:-

Let the petitioner-tenant comply in full the order dated 19.12.2014 (Annexure-3) within 06 weeks and thereafter he shall approach the revisional authority for restoration of Revision No. 56 of 2015. If the petitioner does so, the learned revisional authority shall restore the said revision application and proceed to dispose of the same on its own merit in accordance with law. In doing so, the revisional authority shall not in any way be precluded by his order dated 03.03.2016 (Annexure-6) rejecting the revision application of the writ petitioner for non-compliance of the interim order(s) passed in the said proceeding.

(Kishore Kumar Mandal, J)

Shyam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24/5/17
Transmission Date	N/A

