

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1270 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- SAMASTIPUR

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1. Orooj Hassan Son of Md. Majeed Hassan resident of village and P.O. Jitwarpur Choth, P.S. Muffasil, District Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Samastipur.
2. Sub-Divisional Officer, Sadar, District - Samastipur.
3. S.P., Samastipur, District Samastipur.
4. Dy. S.P., Town Samastipur, District Samastipur.
5. Officer Incharge, Town P.S. Sadar Samastipur, District Samastipur.
6. Binay Kumar Prasad Son of Late Jagarnath Prasad resident of Ward No. 25, Station Road.
7. Sona Mani Prasad W/o Krishna Kumar Prasad
8. Pammi Kumari
9. Rinki Kumari both D/o Late Krishna Kumar Prasad all (respondent no. 6 to 9), resident of Mohalla and P.O. Station Road, P.S. Town Samastipur, District Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Md. Shahnawaz Ali, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC-4
Mr. Upendra Pratap Singh, AC to SC-4
For Private Respondent : Mr. U.C. Prasad, Advocate
Mr. Manoj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 04-08-2017

This writ application has been filed, under Articles 226 and 227 of the Constitution of India, for issuance of mandamus commanding respondent first set i.e., the State-respondents to open the lock on the rented shop of the petitioner, which was put by respondent second set i.e., the land lord.



2. The case of the petitioner is that there was relationship of landlord and tenant under an agreement between the parties. However, the respondent second set forcefully and in collusion with respondent 1st set locked the shop, which is against the mandate of Bihar Building (Lease, Rent & Eviction) Control Act, 1982, as such, fundamental right of the petitioner has been violated.

3. During pendency of this application I.A. No. 979 of 2017 has been filed on behalf of the petitioner praying therein for grant of ad interim relief by restoration of possession of the petitioner in pursuance of order of the Sub-Divisional Officer, Samastipur, passed, on 02.07.2014, in House Control Case No.4 of 2014, under Section 10(1) of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982, whereby the learned Sub-Divisional Officer, Samastipur, had directed to the respondent second set for unlocking of the said shop and restoration of possession in favour of the petitioner with all amenities.

4. Heard learned counsel for the parties.

5. The background of the writ application is that there was/is relationship of landlord and tenant between the petitioner-tenant and the respondent second set-landlord. Allegation is that respondents forcibly put lock on the rented premise as arbitrary



rent was not enhanced by the petitioner.

6. For redressal of his grievance, the petitioner approached the Collector under Section 10 of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982, which reads as follows:

“Section 10 - Landlord not to interfere with amenities enjoyed by the tenant.-

(1) No landlord shall, without just or sufficient cause cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in possession of a building may, if the landlord has contravened the provisions of sub-section (1) make an application to the Controller complaining of such contravention and may restore any of the amenities on his own responsibility, pending consideration of his application by the Controller.

(3) If the Controller on enquiry is satisfied that the landlord has without just or sufficient cause cut off or withheld any of the amenities enjoyed by the tenant at the time of the commencement of the tenancy or at any time there after, he shall-

(i) in case such amenity has already been restored by the tenant make an order directing the landlord to pay to the tenant the cost of such restoration as determined by him within such time as may be specified in the order; and

(ii) in any other case, direct the landlord to



restore such amenity at such cost and within such time as may be determined by him and also that in case the landlord fails to do so, the amenity may be restored by the tenant at his own cost and such amount as may be specified in the order may be recovered by the tenant as the cost of the restoration either by adjustment towards the rent payable by him or as if the amount were a debt due to him by the landlord.”

7. The Sub-Divisional Officer noticed to the respondent second set. However, no one appeared and passed order dated 02.07.2014 aforesaid, which is Annexure-1 to the I.A. The said order was challenged by the landlords in appeal under Section 24 of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982, before the Collector vide House Control Appeal No.52 of 2014 before the Collector, Samastipur.

8. By order dated 29.03.2017 passed in the aforesaid appeal vide Annexure-3 to the counter affidavit filed by respondent No.6, the Collector, Samastipur, after hearing the parties set aside the order dated 02.07.2014 and remitted back the matter to the Sub-Divisional Officer, Samastipur, who is Rent Controller under the Act, to pass necessary order after hearing the parties and considering the material brought on the record.

9. Since the parties are prosecuting their grievance



before the appropriate forum and the matter is subjudice, this Court is not inclined to grant any relief to the petitioner at this stage or interfere with the proceeding before the competent authority.

10. Accordingly, this writ application stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.08.2017
Transmission Date	11.08.2017

