

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17334 of 2016**

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Bijay Kumar & Ors

... .. Petitioner/s

Versus

The State Of Bihar & Ors

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ganpati Trivedi, Sr. Advocate  
Mr. Madan Mohan, Advocate

For the Respondent/s : Mr. CHITRANJAN SINHA(PAAG2)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2     15-09-2017             Heard Mr. Ganpati Trivedi, learned Senior Advocate for  
the petitioners.

The present writ application has been filed for a direction to the respondent authorities for payment of admitted dues of the petitioners towards house rent, at the rate of Rs.2,09,000/- per month from 24.4.2015 till date.

This is admitted fact that 23 Battalion NCC, under the control of Commanding Officer, is tenant on the ground floor of the building of the petitioners consisting of a built up covered area measuring 3450 sq.ft. and 5919 sq.ft. open area, since the last thirty years.

Earlier, the enhancement of rent was made in 2009 vide House Control Case No. 7 of 2009, whereby the rent was fixed at the rate of Rupees Sixty Thousand per month but the said



order was modified in exercise of revisional jurisdiction vide House Control Revision Case No. 1 of 2013-14 by the Divisional Commissioner, Bhagalpur from Rs.60,000/- to Rs.45,000/-. The said order was challenged by the petitioners in C.W.J.C. No. 1771 of 2014 and a bench of this Court vide order dated 24.8.2015, as contained in Annexure 1, upheld the order of the House Controller-cum-Sub Divisional Officer. Five years thereafter, the petitioners filed another case for fixation of fair rent being House Control Case No. 9 of 2015, wherein, vide order dated 22.12.2015, the House Controller fixed the rent as Rs.2,09,535/- per month but the said order has neither been challenged nor the payment has been made. However, an effort was made by the tenant to shift the office of 23 Battalion NCC but the same did not get approved at the higher level. Hence, the office of 23 Battalion NCC still continued as tenant in the house of the petitioners, but without paying any rent.

This writ application was filed on 18.10.2016 wherein a counter affidavit was filed on 5.5.2017. In the counter affidavit stand was taken in paragraph 14 that the respondents are contemplating to file appeal.

It is submitted by learned Senior Counsel for the petitioners that now the appeal has been filed vide House



Control Appeal No. 39 of 2017-18 and the same has been admitted vide order dated 4.7.2017 passed by the Collector, Bhagalpur without condoning the delay, which suggests the arbitrary manner in which, the quasi judicial function is being performed by the Collector. Though, from the counter affidavit, it appears that respondents have not denied the factum of tenancy and fixation of rent by the House Controller, however, in view of the fact that appeal is pending, this writ application is disposed of. It is expected from the Collector, Bhagalpur to dispose of the appeal within a period of eight weeks from the date of receipt/production of a copy of this order since the petitioners have already entered appearance in the said appeal.

**(Dinesh Kumar Singh, J)**

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