

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10928 of 2019

1. Sohan Lal Gaur S/o Late Govind Lal Gaur, Resident of Vishunpad Road, Police Station Civil Line, Gaya, Dist.- Gaya
2. Vishwanath Prasad Husband of Late Kusum Devi, and S/o Late Bachchan Ram Resident of Dakkhana Gali, Mohalla- Chand Chaura, Police Station Civil Line, Gaya, Dist.- Gaya
3. Kishan Kumar S/o Late Vijay Prasad, Resident of Tilha Dharamshala, West Gate, Mohalla- Chand Chaura, Police Station Civil Line, Gaya, Dist.-Gaya
4. Anil Kumar S/o Late Mahavir Pd. Gupta, Resident of Panch Mahalla Ander Gaya, Kath Kachchi, Police Station Civil Line, Gaya, Dist.- Gaya
5. Raju lal Goliwar, S/o Kanhaiya Lal Goliwar, Resident of Mirchagali Kath Kachchi, Ander Gaya, Police Station Civil Line, Gaya, Dist.-Gaya
6. Sanjay Goshwami S/o Late Tunni Lal Goshwami, Resident of Panch Mahalla, Ander Gaya, Kath Kachchi, Police Station Civil Line, Gaya, Dist.- Gaya
7. Akshay Kumar S/o Uday Kumar Mahuar, Resident of Tila Dharmshala, Bahuar Chaura, Police Station Civil Line, Gaya, Dist.- Gaya
8. Arbind Gaur S/o Late Govind Lal Gaur, Resident of Mohalla- Kar Silli, Sishnupad Road, Police Station Civil Line, Gaya, Dist. -Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gaya
2. The District Magistrate, Gaya-cum- Chairman, Samwas Sadan Samiti (Lodging Housing Committee), Gaiya
3. The Sub-Divisional Magistrate-cum-House Controller, Sadar, Gaya
4. The Special Executive Officer, Collector, Confidential Branch-cum-Secretary, Lodging Housing Committee, Gaya
5. The Circle Officer, Town, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. T. N. Maitin, Sr. Advocate Mr. Rajeev Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy, GP-18 Mrs. Surekha Kumari, AC to GP-18

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 14-05-2019 Heard learned counsel for the petitioners and the State.

2. The grievance of the petitioners in the instant case



is arbitrary enhancement of the rent.

3. Mr. T. N. Maitin, learned senior counsel appearing on behalf of the petitioners has challenged the validity of Annexure-4, whereby the Sub-Divisional Magistrate, Sadar, Gaya in Rent Control Case No. 45 of 2018 has enhanced the rent. He submits that under Sub-Rule(v) of Rule 3 of the Rules framed under Bihar Building (Lease, Rent and Eviction) Control Rules, 1983 the matter of enhancement is only 50% and as such Annexure-4 is not sustainable.

Sub-Rule(v) of Rule 3 of the Rules is quoted herein below for ready reference:

“ 3. The Controller may determine the fair rent of a building either on the application by the landlord or by the tenant in possession of the building or on his own motion as also on the application of the landlord of prospective tenant.

(v) If at any time after the first fixation of standard of rent the market price of the land and the cost of construction increases by more than twenty-five per cent on the basis of the value of the land and the cost of construction estimated at the subsequent prevailing market rates, then the landlord shall be entitled to have the monthly rent increased by an amount not exceeding one-twelfth of the



seven half per cent of the additional increase in the original market priced or the land and the cost of construction from the date as may be determined in the manner prescribed subject to a maximum of fifty per cent of the original standard rent.”

4. Considering the aforesaid restriction of enhancement of rent, the Court is of the considered view that the enhancement of rent by Annexure-4 is without jurisdiction and as such it cannot sustain, it is accordingly quashed.

5. The writ application is allowed and disposed of.

6. However, the quashing of Annexure-4 will not disentitle the respondents in taking fresh determination for enhancement of rent within the parameters of Sub-Rule (v) of Rule 3 of the Rules after giving opportunity of hearing to the petitioners.

(Anil Kumar Upadhyay, J)

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