

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19831 of 2011

=====

Rajesh Kumar, Son of late Dharm Nath Prasad, Resident of Mill Road,
Nawada, Ara (Zora Mandir), P.O.- Ara, P.S.- Nawada Ara, District- Bhojpur
... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The Collector, Ara
4. The Sub -Divisional Officer Cum House Rent Controller Officer, Ara Sadar,
District Ara
5. Sri Ramjee, Laxuman Jee, Hanuman Jee, Shankarjee, Parbatijee, Ganeshjee
Through Karta and Mutwali Son of Late Kanhaiya Lal, Resident of Mohalla
- Nawada, Ara, P.S. Nawada, Ara District Bhojpur
6. Gopal Prasad, Son of Late Kanhaiya Lal, Resident of Mohalla Nawada Ara,
P.S. Nawada, Ara, District Bhojpur
7. Nisu, Son of Kapil Prasad,
8. Ram Chandra Prasad, Son of Late Jagarnath Prasad
9. Rajendra Prasad, Son of Late Jagarnath Prasad
10. Vikash Kalwar Alias Bitu, Son of Late Kesho Prasad
11. Kishori Prasad, Son of Late Kanhaiya Lal
12. Madan Prasad, Son of Late Kanhaiya Lal
13. Dharmnath Prasad, Son of Late Kanhaiya Lal
14. Rajesh Prasad, Son of Late Kanhaiya Lal
15. Suresh Prasad, Son of Late Kanhaiya Lal
16. Badri Prasad, Son of Late Yadu Nandan Ram Kalwar
Respondent Nos. 7 to 16 are Resident of Mohalla - Nawada, Ara, P.S.
Nawada Ara, District- Bhojpur At Present Resident of C.P. Road, Gola Ghat,
Assam

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Harsh Anuj, Advocate
For the Respondent/s : Mr. Ravi Verma, AC to GP-4

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 10-05-2019 Heard learned counsel for the petitioner and the State.

2. Despite valid service of notice on private
respondents, no one appears on their behalf.

3. It appears that the Court cases are neglected by the



counsel and that is why despite repeated calls, 2011 matters are kept pending although simple issues are involved.

4. In the present case, the only issue is issue of jurisdiction whether the Rent Controller has jurisdiction to fix rent 43 times rent under the Bihar Building (Lease, Rent and Eviction) Control Rules, 1983.

5. Learned counsel for the petitioner submits that under the Rule enhancement of 50% is only permissible. Rule 3 Sub-Rule (v) of Bihar Building (Lease, Rent and Eviction) Control Rules, 1983 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.”

6. In view of the above, the order of the Rent Controller cannot sustain, as it is beyond jurisdiction. The order of the appellate authority as well as revisional authority is also not sustainable in view of the fact that if the enhancement is only permissible up to 50%, then enhancement of rent beyond 50% is not permissible. Action and inaction of the revisional authority allowing enhancement beyond 50% is against the law. Accordingly, the writ application is allowed and order as contained in Annexure- 2 dated 11.03.2008, Annexure- 3 dated 15.05.2009 and Annexure- 4 dated 28.06.2009 are quashed. The matter is remitted to the Rent Controller for fresh adjudication in accordance with Rules. Necessary decision in this regard must be taken by the Rent Controller within a period of 60 days from the date of receipt/production of a copy of this order.

7. With the aforesaid, this application stands disposed of.

(Anil Kumar Upadhyay, J)

uday/-

U			
---	--	--	--

