

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.13 of 2022

1. Manish Saree Emporium a partnership firm having its office at H/o Mr. Brij Raj Kishore Prasad, Kachahariya Kothi, Ram Krishna Avenue, Nala Road, P.S.-Kadam Kaun, Patna 800004 through its partners.
2. Mr. Ashok Agarwal, son of Sri Prem Chand Agarwal, resident of Flat No. 5A and B, Devalay Apartment, Bari Path, P.S.-Pirbahore, P.O.-Bankipur, District-Patna.
3. Mrs. Monika Agarwal, aged about 43 years, female, wife of Sri Ashok Agarwal resident of Flat No. 5A and B, Devalay Apartment, Bari Path, P.S.-Pirbahore, P.O.-Bankipur, District-Patna.

... .. Petitioner/s

Versus

1. Brij Raj Kishore Prasad, Son of Late Krishna Deo Prasad, resident of Kachahariya Kothi, R.K. Avenue Road (Nala Road), District-Patna 800004.
2. Sri Vijayant @ Kumar Vijayant, son of Brij Raj Kishore Prasad, resident of Kachahariya Kothi, R.K. Avenue Road (Nala Road), District-Patna 800004.
3. Smt. Bibha Kumari, Wife of Brij Raj Kishore Prasad, resident of Kachahariya Kothi, R.K. Avenue Road (Nala Road), District-Patna 800004.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Neeraj Kumar Mr. Sanjay Mandal
For the Respondent/s	:	Mr. J.S. Arora, Sr. Advocate Mr. Manoj Kumar Ms. Aishwarya Mr. G. Pratap

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

3 22-06-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

This civil miscellaneous petition has been preferred by the petitioners against the order dated 03.12.2021, passed by the learned Sub Judge-IX, Patna in Eviction Suit No. 61 of



2019, whereby the learned trial court has directed the petitioners (tenants) to deposit arrears of rent under Section 15 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982, hereinafter to be referred to as 'the Act'.

The brief facts of the case is that the respondents-landlords filed a suit for eviction under Section 11 of the Act for eviction of the defendants/petitioners on the ground of default in payment of arrears of rent.

It is an admitted fact that the respondents-landlords leased out the suit premises by a registered deed of lease dated 23.08.2018 to the defendant/petitioner.

In paragraph nos. 4 and 5 of the lease deed dated 23.08.2018, year-wise descriptions of rent payable have been given. Paragraph nos. 4 and 5 are quoted hereunder:-

4. That the rent payable by the LESSEES to the LESSORS shall be paid through transfer of money in the Account of the LESSORS by RTGS or through A/C Payee Cheque but in case of payment of rent by A/C Payee Cheque, the payment shall be initiated only on the date, when the cheque is encashed. The amount of rent shall increase by 10% after first three year and thereafter the rent shall be enhanced by 15% every three years and proportion of the amount of rent as payable to each of the LESSORS wold be in the following manner:-

<i>Lease</i>	<i>Lease Period</i>	<i>Lease Rent</i>
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<i>year</i>		<i>per Month</i>
<i>1st</i>	<i>01.10.2017 to 30.11.2017</i>	<i>5,52,000.00/-</i>
<i>2nd</i>	<i>01.10.2018 to 30.09.2019</i>	<i>6,77,000.00/-</i>
<i>3rd</i>	<i>01.10.2019 to 30.09.2020</i>	<i>6,77,000.00/-</i>
<i>4th</i>	<i>01.10.2020 to 30.09.2021</i>	<i>7,44,700.00/-</i>
<i>5th</i>	<i>01.10.2021 to 30.09.2022</i>	<i>7,44,700.00/-</i>
<i>6th</i>	<i>01.10.2022 to 30.09.2023</i>	<i>7,44,700.00/-</i>
<i>7th</i>	<i>01.10.2023 to 30.09.2024</i>	<i>8,56,405.00/-</i>
<i>8th</i>	<i>01.10.2024 to 30.09.2025</i>	<i>8,56,405.00/-</i>
<i>9th</i>	<i>01.10.2025 to 30.09.2026</i>	<i>8,56,405.00/-</i>

5. That the monthly LEASE rent amongst the LESSORS shall be distributed in the following manner:-

<i>Name</i>	<i>Share of Rent</i>
<i>Brij Raj Kishore Prasad</i>	<i>33.34% of Lease Rent</i>
<i>Sri Vijayant @ Kumar Vijayant</i>	<i>33.33% of Lease Rent</i>
<i>Vikrant @ Kumar Vikrant</i>	<i>33.33% of Lease Rent</i>

In paragraph no. 6, it has been mentioned that lessees had given interest-free sum of Rs.58,31,000/-(Rupees fifty eight lakh thirty one thousand only) to the lessors through several cheques.

The learned counsel for the petitioners has submitted that the learned court below has committed gross illegality and jurisdictional error in allowing the petition under Section 15 of the Act by directing the petitioners to deposit the arrears of rent.



He has submitted further that while passing the order, the learned court below did not consider the fact that Rs. 50,00,000/- (Rupees fifty lakhs) has been spent by the petitioners in floor works, fixing of transformer, electric works and installation of lift and other necessary works.

Mr. J.S.Arora, the learned Senior Counsel for the respondents has submitted that the petitioners/defendants disobeyed the terms and conditions of the lease deed dated 23.08.2018 and they did not pay the rent since April, 2021 up-till date and arrears of rent has accumulated more than crores of rupees. The landlords who are dependent on the rent are facing hardship. As per the provision of Section 15 of the Act, the learned trial court rightly directed the petitioners to pay the rent in accordance with paragraph no.4 of the registered lease deed. Instead of paying the rent and obeying the order of the court of competent jurisdiction, the present petition has been filed only with a view to delay and avoid the payment of rent with *mala fide* intention. He has submitted further that the petition should not only be rejected but a heavy cost should also be imposed on the petitioners for abusing the process of the court.

I have gone through the impugned order of the learned court below.



The submissions of the petitioners about expenditure of Rs. 50,00,000/- (Rupees fifty lakhs) for floor works, fixing of transformer, electric works and installation of lift has been discussed in the impugned order and as there was no evidence at the time of filing of the petition, the learned trial court directed it to be decided at the time of final adjudication of the case. It is a matter of evidence whether the petitioners have spent the above-mentioned amount of Rs. 50,00,000/-(Rupees fifty lakhs) for the above-noted works. The mode of adjustment of the amount of earnest money has been given in paragraph no. 8 of the deed of lease dated 23.08.2018.

In my view, the learned trial court did not commit any illegality or jurisdictional error.

The petitioners are directed to pay the rent as per the terms and conditions mentioned in paragraph no.4 of the deed of lease dated 23.08.2018.

With these observations, this civil miscellaneous application is dismissed.

The trial court is directed to expedite the case and dispose it of as expeditiously as possible. No unnecessary adjournment should be given.

Office shall ensure that all the defects are removed by



the petitioners within the stipulated time provided hereinabove,
failing which the matter shall be brought to the notice of this
Court.

(Nawneet Kumar Pandey, J)

HR/-

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