

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4380 of 2018

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Ramendra Kumar Sinha Son of Late Rishikesh Kumar Sinha, Resident of
Baldev Bhawan, Punaichak, Police Station-Shastri Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The Collector, Patna.
4. The House Rent Controller Cum Sub Divisional Officer, Sadar, Patna.
5. The Settlement Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. J.S. Arora, Sr. Adv. Mr. Manoj Kumar, Adv. Mr. Gaurav Pratap, Adv. Ms. Aiswarya, Adv. Mr. Srijm, Adv. Mr. Ravi Bhatia, Adv.
For the Respondent/s	:	Mr. Mukul Prasad, AC to G.P. 18

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 26-07-2022

The present writ petition has been filed for quashing the order dated 04.08.2008 passed by the House Controller-cum- Sub-Divisional Officer, Patna Sadar in B.B.C. Case No. 67 of 2003, the order dated 12.01.2014, passed by the learned Court of Collector-cum- District Magistrate, Patna in B.B.C. Appeal No. 12 of 2008-09 and the order dated 10.05.2016, passed by the learned court of Divisional Commissioner, Patna in B.B.C. Revision Case No. 665 of 2014.

2. The brief facts of the case are that by a rent lease, the premises in question was given on rent by the petitioner to



the Executive Engineer, Bridge Design Division No.2, Government of Bihar, Patna and subsequently, with mutual consent, the rent was enhanced by 20% and fixed for a period of further three years, thereafter. It appears that the rent could not be determined mutually thereafter, hence the same led to filing of a petition by the mother of the petitioner before the learned court of House Controller, Patna Sadar, which was registered as B.B.C. Case No. 292 of 1990 and the same was disposed of by an order dated 18.7.1992 and the rent was enhanced w.e.f. 18.7.1992 i.e. the date of passing of the said order in question. The petitioner was apparently not aggrieved by the same, hence had not challenged the said order dated 18.7.1992, however, again the issue of enhancement of rent arose, leading to filing of a fresh case by the Executive Engineer, P.W.D., before the learned court of House Controller, Sadar Patna, bearing B.B.C. Case No. 67 of 2003, which was disposed of by the House Controller, Sadar Patna by an order dated 22.07.2004, directing for increase of rent by 25%. The said order dated 22.07.2004 was challenged by the petitioner in B.B.C. Appeal Case No. 12 of 2004-05 and the learned court of Collector-cum-District Magistrate, Patna, by an order dated 11.10.2006, had remanded the matter back to the House Controller, Patna Sadar, indicating



therein that the House Controller, Sadar Patna has not taken into consideration all the circumstances as laid down under Rule 3 (ii) of the Bihar Buildings (Lease, Rent & Eviction) Control Rules, 1983 (hereinafter referred to as “Rules, 1983”).

3. Upon remand, the House Controller, Patna Sadar, instead of considering the factors required to be taken into account for the purposes of determining the fair rent, as required under Rule 3(ii) of the Rules, 1983, in a casual and mechanical manner fixed the rent by reducing the same by an order dated 04.08.2008, passed in B.B.C. Case No. 67 of 2003, as compared to the incremental rent determined by him vide his earlier order dated 22.07.2004 inasmuch as the raise was reduced from 25% to 20% every five years. The petitioner being aggrieved by the said order dated 04.08.2008 preferred an appeal bearing B.B.C. Appeal No. 12 of 2008-09, however, the same was dismissed in limine by an order dated 12.01.2014, which, apparently did not spell out any reason for dismissal of the appeal of the petitioner. Consequently the petitioner had challenged the said order dated 12.01.2014 before the revisional court i.e. the learned Court of Divisional Commissioner, Patna Sadar by filing B.B.C. Revision Case No. 665 of 2014 and the learned court of Divisional Commissioner, Patna Sadar by an



order dated 10.05.2016 has dismissed the revision petition filed by the petitioner, by holding that the increment in the rent to the extent of 20% every five years is quite adequate. This is how the petitioner is before this Court.

4. The learned Senior Counsel appearing for the petitioner, Shri J.S. Arora has submitted that Rule 3(ii) of the Rules, 1983 clearly provides and enumerates the factors to be taken into consideration while determining the fair rent by the House Controller. In this regard Rule 3(ii) of the Rules 1983 is reproduced herein below:-

3(ii) In determining the fair rent the Controller shall take into account the following factors:-

- (a) The prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances at any time during the twelve months preceding the date of his order;
- (b) The increased cost of repairs required to be made in the building;
- (c) The amenities, general or special provided in the building;
- (d) The compound or the open land attached to the building;
- (e) The type of construction and the location of the building, and the nature of tenancy, i.e., whether it is for residential purpose or for business purpose, etc;
- (f) The municipal tax or corporation tax of the building;



(g) Any lawful agreement entered into by the landlord and the tenant.

5. It is thus submitted that neither the order dated 04.08.2008 passed by the Rent Controller, Sadar Patna nor the appellate order dated 12.01.2014 passed by the learned court of Collector-cum District Magistrate, Patna nor the order dated 10.05.2016 passed by the Revisional Court have taken into consideration the factors provided under Rule 3(ii) of the Rules, 1983 for the purposes of determining the fair rent, hence all such orders passed by the aforesaid authorities are illegal and contrary to the mandate of Rules 3(ii) of the Rules, 1983, thus are fit to be quashed.

6. Per contra, the learned counsel for the Respondent State has though vehemently opposed the prayer made the petitioner in the present writ petition, but he is not averse to the idea of the present case being remanded back to the House Controller for passing fresh orders after taking into account the provisions contained in Rule 3(ii) of the Rules, 1983.

7. Having regard to the facts and circumstances of the case and considering the fact that none of the authorities, as aforesaid, has considered or taken into account the factors required to be considered for determining the fair rent, as provided for in Rule 3(ii) of the Rules, 1983, this Court finds that



all the aforesaid orders i.e. the one dated 4.8.2008 passed by the Rent Controller, Sadar Patna, the one dated 12.01.2014 passed by the District Magistrate, Patna and the one dated 10.5.2016, passed by the learned court of Divisional Commissioner, Patna, are unsustainable in the eyes of law, hence, are quashed, nonetheless, the case in hand is remanded back to the Rent Controller, Sadar Patna with a direction to him to consider the provisions contained in Rule 3(ii) of the Rules, 1983 and thereafter, pass appropriate orders in accordance with law, in the aforesaid B.B.C. Case No. 67 of 2003, which stands revived.

8. It is needless to state that the final order shall be passed by the learned House Controller-cum- Sub-Divisional Officer, Patna Sadar, Patna within a period of six months of receipt/ production of a copy of this judgment.

9. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31-08-2022
Transmission Date	N/A

