IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12985 of 2023

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Shobha Prasad W/o Justice (Retd.) Radha Mohan Prasad, R/o Mathura Prasad Sinha Road, P.S. Kadamkuan, District-Patna.

... ... Petitioner/s

Versus

1. The Bank of India through its Managing Director and CEO having its Head Office, at Star House, C-5, G Block, Bandra-Kurla Complex, Bandra (East), Mumbai-400051.
2. The Managing Director and CEO, Bank of India, Star House, C-5, G Block, Bandra-Kurla Complex, Bandra (East), Mumbai-400051.
3. The Zonal Manager, Bank of India, Zonal Office, R. Block, Patna-800001.
4. The Branch Manager, Bank of India, Rajiv Nagar Branch, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan, Sinha, Sr. Adv.
	:	Mr. Om Prakash Kumar, Adv.
	:	Mr. Sunit Kumar, Adv.
	:	Mr. Shashank Shekhar, Adv.
For Respondent	:	Mr. Anjani Kumar Mishra, Adv.
	:	Mr. Ambarish Bhardwaj, Adv.
For the Respondent/s	:	Mr. Ajit Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT
Date : 08-01-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

> *"(a) For issuance of appropriate writ(s), order(s), direction(s) commanding the respondent bank to pay enhanced rent to the petitioner with immediate effect including arrears w.e.f. 1.12.2021.*
>
> *(b) For issuance of appropriate writ(s), order(s), direction(s) commanding the respondent bank to pay interest on the arrears @ 18% per annum.*
>
> *(b) For any other relief(s) that the petitioner is entitled to in the facts and circumstances of the case.*
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> *For issuance of appropriate writ, order(s), direction(s) commanding the respondents Bank to*

vacate the ground floor of premises of the petitioner bearing Khesra No. 3575, khata No. 771, Tauzi no. 5131, situated in Mauza-Digha Khurd, Pargana Phulwari, Thana Sadar Digha located in Main Road, Rajiv Nagar, Patna, in view of the fact that even after expiry of lease period, the respondent Bank is illegally occupying the premises and paying rent at the old rate without any jurisdiction."

3. It is the case of the petitioner that the respondent-Bank has taken the building belonging to the petitioner on rent way back in the year 2006 i.e., commencing from 01.12.2006 and to that effect an agreement of lease was entered between the parties initially for a period of 15 years. As per the terms of the said lease agreement, the period of lease expired on 30.11.2021. Though the lease deed was supposed to be registered, the same could not be registered and only on the basis of unregistered agreement of lease deed, the respondent-Bank has been in occupation of the subject premises by paying the rent fixed as per the terms and conditions of the above lease deed. That after the expiry of terms of the lease period as per the lease deed dated 01.12.2006, the petitioner and the respondent-Bank have mutually agreed for extension of lease period with enhanced rent and the same was reduced into writing. As per the draft lease agreement, the period of lease is extended by 15 years and the new rent is as follows;

"That before the expiry of the term of lease the respondent-bank showed its interest to continue with the tenancy for

which the respondent bank agreed to enhance the rent for next 15 years which is as follows.

(a) Rent @ Rs. 41,000/- per month for the period 01.12.2021 to 30.11.2026 (Total Rs. 41,000 X 60 Months Rs. 24,60,000/-)

b) Rent @ Rs. 47,150/- per month for the period 01.12.2026 to 30.11.2031 (Total Rs. 47,150 X 60 Months Rs. 28,29,000/-)

(c) Rent @ Rs. 54,222.50/- per month for the period 01.12.2031 to 30.11.2036 (Total Rs. 54,222.50 X 60 Months Rs. 32,53,350/-)

Total Rent in 15 years Rs. 85,42,350/-"

4. That though the respondent-Bank had drafted the agreement starting from 01.12.2021 till 30.11.2036, the same could not be registered due to the objection taken by the District Registrar informing that no documents pertaining to Rajiv Nagar locality were being registered. Thereafter, the respondent-Bank contrary to the terms of the new draft lease agreement have been paying the rent at the old rates and not paying the enhanced rates.

5. Learned counsel for the petitioner has stated that the Bank authorities cannot take advantage of the non-registration of the lease agreement purely due to the technical reasons and refuse to pay the enhanced rent. That the authorities cannot refuse to pay the rent or vacate the premises solely on the ground that the agreement of the lease deed is not a registered one. Learned counsel has relied on the judgment of the Hon'ble Supreme Court in the case of ***National Company Vs. Territory Manager, Bharat***

Petroleum Corporation Limited and Anr. reported in ***(2021) 13 SCC 121*** in support of his case. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

6. *Per contra*, the learned counsel appearing on behalf of the respondent-Bank has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has an alternative and efficacious remedy of approaching the Civil Court either for enhancement of the rent or for vacating the subject premises by the respondent-Bank. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

7. The fact that the respondent-Bank is a lease-holder of the petitioner has not been denied. That the lease entered in between the parties commenced from 01.12.2006 which expired on 01.12.2021 thereafter, the parties have decided to extend the lease for a further period of 15 years at an enhanced rate. However, the said lease deed could not be registered due to the objection taken by the District Registrar. In the counter-affidavit filed by the respondent-Bank while reiterating the above, the authorities have taken a stand that due to the change in the policies of the Bank, unless and until the lease is registered, the authorities cannot pay the enhanced rent and that they are ready to pay the enhanced rent as and when the documents get registered.

8. It is pertinent to note that the agreement between the parties was initially entered in the month of December, 2006 and the respondent-Bank continued to occupy the premises on the basis of unregistered lease deed. That after the expiry of the initial lease agreement, the parties i.e., both the petitioner and the respondent-Bank have come to an understanding that the lease needs to be renewed for a further period of 15 years at an enhanced rent which is as follows;

> *“That before the expiry of the term of lease the respondent-bank showed its interest to continue with the tenancy for which the respondent bank agreed to enhance the rent for next 15 years which is as follows.*
>
> *(a) Rent @ Rs. 41,000/- per month for the period 01.12.2021 to 30.11.2026 (Total Rs. 41,000 X 60 Months Rs. 24,60,000/-)*
>
> *b) Rent @ Rs. 47,150/- per month for the period 01.12.2026 to 30.11.2031 (Total Rs. 47,150 X 60 Months Rs. 28,29,000/-)*
>
> *(c) Rent @ Rs. 54,222.50/- per month for the period 01.12.2031 to 30.11.2036 (Total Rs. 54,222.50 X 60 Months Rs. 32,53,350/-)*
>
> ***Total Rent in 15 years Rs. 85,42,350/-’*”**

9. Both the parties having come to an understanding with regard to the extension of the lease period at enhanced rent cannot now take a stand that unless and until the registration of the lease deed takes place, they will not pay the enhanced rent. Even though the respondents-Bank have relied on the policy taken by the Bank, the same cannot be applicable to the facts of the present case as the respondent-Bank has been in possession and occupation of the subject premises way back from the year 2006 whereas the policy has come into existence only in the year 2022. The Hon'ble Supreme Court in the case of ***National Company Vs. Territory Manager, Bharat Petroleum Corporation Limited and Anr.*** reported in ***(2021) 13 SCC 121*** has held as under;

> *"17. Perusal of the impugned judgment rendered by the Division Bench would reveal that though an objection with regard to maintainability of the writ petition on the ground of alternate remedy was seriously raised by Respondent 1 BPCL, the Division Bench was not impressed much with the said submission. As a matter of fact, the Division Bench not only referred to the judgment of this Court in ABL International Ltd. vs. Export Credit Guarantee Corpn. Of India Ltd. but also emboldened the following observations of this Court while reproducing para 19 of the said judgment, which reads thus: (ABL International case, SSC p. 568)*
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> > *19. Therefore, it is clear from the above enunciation of law that merely because one of the parties to the litigation raises a dispute in regard to the facts of the case, the Court entertaining such petition under Article 226 of the Constitution is not always abound to relegate the parties to a suit." (emphasis supplied)*
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> *18. The Division Bench also referred to the judgment of this Court in Dolly Das, wherein this Court held that in similar facts, the appellants therein were justified in approaching the writ court under Article 226 of the Constitution of India and directed HPCL to hand over vacant possession and pay the monthly rent."*

10. Having regard to the above, the respondent-Bank are directed to either enter into a fresh lease agreement starting from 01.12.2021 and pay the enhanced rent as per the agreed terms and conditions or in case the respondent-Bank is not willing to pay the enhanced rent solely on the ground that the lease deed cannot be registered forthwith.

11. With the above direction, the present writ petition stands allowed to the extend indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2025.
Transmission Date	NA