

Patna High Court - Orders

Kamal Sah vs The State Of Bihar & Ors on 4 March, 2011

IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.6840 of 2010

1. KAMAL SAH, S/O LATE SUNDER SAH, R/O SAMIR NAGAR
WARD NO. 25, P.S.- CHITRAGUPTA NAGAR, DISTRICT-KHAGARIA.

Versus

1. THE STATE OF BIHAR.
2. THE COLLECTOR, KHAGARIA.
3. THE REGISTRAR GENERAL, PATNA HIGH COURT, PATNA.
4. THE REGISTRAR (ADMINISTRATION), PATNA HIGH COURT, PATNA.
5. THE REGISTRAR, CIVIL COURT, KHAGARIA.

3. 04.03.2011 Heard learned counsel for the petitioner and the State.

The petitioner is stated to be running a tea and snacks shop in the premises of the Civil Court at Khagaria. He is aggrieved by a notice dated 9.3.2010 asking him to deposit arrears of rent from 2006 to 2010 at the rate of Rs. 1 per square foot.

A counter affidavit has been filed on behalf of the respondents.

The controversy sought to be raised by the petitioner that he is in occupation of 323 square feet only and not 700 square feet, is set at rest from Anenxures A and B to the counter affidavit, and which leaves the Court satisfied that till 24.3.2007, the petitioner apparently was in possession of 700 square feet area. If the petitioner disputes this fact including his signature on the aforesaid documents, the writ petition goes into the arena of disputed facts and is not maintainable.

The petitioner is therefore held liable to pay at the rate of 1 per square foot from 2006 to 24.3.2007 less what may have been paid by him before.

If the petitioner claims that after 24.3.2007 his area of occupation at any time got reduced to 323 square feet, that is matter for physical verification. Unfortunately, the counter affidavit of the Registrar, Civil Court, Khagaria is not specific. Had it made a categorical assertion that the petitioner continues in occupation of 700 square feet even today, perhaps the Court may not have interfered or given any further directions. The absence of any such statement in the counter affidavit satisfies the Court of the need to permit the petitioner to file a representation before the District Judge, Khagaria, for any payment due after 24.3.2007, that he was in occupation of area less than 700 square feet. The District Judge shall then hold an enquiry giving full opportunity to the petitioner, to arrive at a finding of the area of occupation, if it got reduced, and from when, and thereafter determine the final liability at the rate of Rs. 1 per square foot after 24.3.2007. Such determination shall be done by the District Judge within a maximum period of three months from the date of receipt/production of a copy of this order and the dues, as may be ascertained in law, deposited by the petitioner within such time as the District Judge may grant for the purpose.

Failure on part of the petitioner to comply the aforesaid direction including payment of the balance amount from 2006 shall leave the District Judge at liberty to proceed in accordance with law.

Subject to the deposit of the arrears of rent discussed above from 2006 till 24.3.2007, pending determination by the District Judge for the period thereafter, the petitioner may be permitted to run his shop subject to the final orders to be passed by the District Judge.

The writ application stands disposed.

P. Kumar

(Navin Sinha, J.)