

Jharkhand High Court

Bijay Kumar Das & Ors vs Ajit Prasad Singh on 27 April, 2011

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 357 of 2009

Bijay Kumar Das & ors.	...	Petitioners
Versus		
Ajit Prasad Singh	...	Respondent

CORAM: HON'BLE MR. JUSTICE D.N.PATEL

For the petitioners	:	Mr. M.K.Dey, Sr. Advocate
For the respondent	:	Mr. L.C.N. Shahdeo, Advocate

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Order No. 04: Dated 27 April, 2011

Per D.N.Patel, J.

1. The present writ petition has been preferred by the original defendants of Eviction Suit No. 5 of 2007, who are challenging the order passed by the Munsif, Chaibasa, dated 9th January, 2009, whereby, as per the provisions of Section 15 of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982 (hereinafter to be referred as "the Act, 1982" for the sake of brevity) the defence of the original defendants have been struck off for non-payment of the rent.

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, I hereby quash and set aside the order passed by the Munsif, Chaibasa dated 9th January, 2009 in Eviction Suit No. 5 of 2007, mainly for the following facts and reasons:

(I) The present petitioners are the original defendants in Eviction Suit No. 5 of 2007 and the present respondent is the original plaintiff. Under Section 15 of the Act, 1982, an order was passed on 7th December, 2007 for depositing the rent before the learned trial court by the original defendants. Thereafter, the suit was dismissed for default on 6th March, 2008.

(II) It is admitted fact that in pursuance of the direction given by the trial court the present petitioners (original defendants) were depositing the rent in the trial court.

(III) It further appears from the facts of the case that Eviction Suit No. 5 of 2007 was, thereafter, restored to its original file and number on 2nd September, 2008 and immediately thereafter, an application was preferred by the original plaintiff on 6th December, 2008 that the defendants are not depositing the rent and, therefore, the defence of the original defendants must be struck off, as per the provisions of Section 15(1) of the Act, 1982.

(IV) While passing the impugned order, the learned trial court has not properly appreciated the fact that the petitioners (original defendants) have already deposited the rent from March, 2008 till

December, 2008 on 15 th December, 2008. This fact is even admitted by the original plaintiff before this Court.

(V) Thus, the petitioners (original defendants) have been regularly depositing the rent before the trial court and their willingness is there to deposit the same during the pendency of Eviction Suit No. 5 of 2007.

3. In view of the aforesaid facts, I hereby quash and set aside the order passed by the Munsif, Chaibasa, dated 9th January, 2009 in Eviction Suit No. 5 of 2007 and I hereby direct the trial court to dispose of the Eviction Suit as early as possible and practicable, preferably on or before 30th December, 2011. Learned counsel for both the sides submitted that they will cooperate with the hearing of Eviction Suit No. 5 of 2007 and will not ask for any unnecessary adjournment.

4. This writ petition is, accordingly, allowed and disposed of.

(D.N. Patel, J.) A.K.Verma/