

(2005) 03 JH CK 0005
Jharkhand High Court
Case No: C.R. No. 25 of 2004

Urmila Devi and
Others

APPELLANT

Vs

Smt. Sushila Devi and
Another

RESPONDENT

Date of Decision: March 21, 2005

Acts Referred:

- Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 - Section 14

Citation: (2005) 2 JCR 556

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Advocate: V. Shivnath, for the Appellant; R.P. Gupta, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

N.N. Tiwari, J.

This Civil Revision application has been directed against the judgment and decree dated 11.12.2003 passed by Munsif-I, Dhanbad in Title (Eviction) Suit No. 9 of 1998.

2. The petitioner are the tenants. The plaintiffs-landlord let out the shop premises to the petitioner-tenants wherein they have been running their clothes business in the name and style of Rajesh Clothes Stores. The plaintiffs filed the said Title (Eviction) Suit No. 9 of 1998 for eviction of the petitioners- tenants on the ground of personal necessity. According to the plaintiffs, they require the suit premises for their personal use and occupation to start a business for plaintiff No. 2. The defendants were thus requested but they did not vacate. Hence the suit was filed.

3. The case of the defendant-tenants/petitioners is that the plaintiffs are not the real owner of the suit premises and the instant case was filed as a counter action after the petitioner had filed Title Suit No. 85 of 1997 which was disposed of by Lok Adalat

on the basis of the compromise, on 3.12.1997. According to the defendants, initially the rent of the premises was Rs. 375/- per month, But the rent was subsequently enhanced from time to time and the defendants were forced to pay an illegally enhanced rent @ Rs. 700/- per month from January, 1990. Even rent receipts were not granted. The plaintiffs managed one Sub-Inspector of Police namely, Ashok Kumar Giri, who threatened the petitioners of dire consequences. Under that circumstance, defendants had to file the said title suit being Title Suit No. 85 of 1997 with a prayer for injunction. However, the landlord subsequently came to the terms and the matter was settled and the said suit was disposed of the terms of compromise on 23.12.1997. The defendants denied the landlord's ground of personal need and alleged that the only motive was to further enhance the monthly rent and that the suit was frivolous and baseless.

4. Since the suit was filed only on the ground of personal necessity the same was deal with under the provision of Section 14 of the Bihar Building (Lease Rent and Eviction) Control Act, 1982. The trial Court after discussing and considering the evidences and materials on the record arrived at the finding that the plaintiffs require the suit premises for bona fide requirements. The Court below also considered that the needs of the landlord cannot satisfy by partial eviction of the tenants. The learned trial Court thus decreed the suit in favour of the plaintiffs and has direct the defendants to vacate the suit premises within 90 days.

5. In this Civil Revision the said judgment and decree has been assailed on several grounds which at the time of hearing were not found sound and convincing. However, in view of the subsequent attitude shown by the petitioners, it is not necessary to go into detailed discussion/consideration of the merit of the grounds.

6. In course of hearing of this revision, the petitioners have filed in affidavit giving their undertaking stating that they are looking for a suitable accommodation for shifting their business which is the only source of their livelihood and as soon as they get a vacant shop in market area they will vacate the suit premises on their own. The petitioners have made specific statement that in any even they will vacate the suit premises within a period not more than 9 months from this date. In view of the circumstances of the case and the clear undertaking given by the petitioners before this Court, though I find no merit in this Civil Revision application, I am inclined to grant nine months" time to the petitioner for vacating the suit premises as per their undertaking on the following terms :--

(i) The petitioners according to their undertaking, will vacate the suit premises on or before 19th December, 2005.

(ii) The petitioner shall pay the entire arrears of rent to the plaintiffs, if not already paid, by 31st March, 2005 and shall go on paying the monthly rent @ Rs. 700/- per month in advance by 6th of each month.

(iii) The petitioners shall hand over the peaceful vacant possession of the suit premises to the opposite parties and obtain receipt of delivery of possession from the opposite parties in writing.

7. In view of the above, further proceeding in Execution Case No. 9 of 2004 pending in the Court of Munsif-I, Dhanbad shall be kept in abeyance till 19th December, 2005.

8. It is made clear that violation of the said undertaking by the petitioners shall be treated as violation of the order of this Court and appropriate action will be taken as provided by law for committing contempt of this Court.

9. With the aforesaid directions, this Civil Revision application is disposed of.