
(2004) 1 BLJR 66 : (2003) 4 JCR 609

Jharkhand High Court

Case No: Civil Revision No. 327 of 2002

United India Insurance
Co. Ltd.

APPELLANT

Vs

Ravi Prasad

RESPONDENT

Date of Decision: Nov. 11, 2003

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 " Section 11(1), 14(8)#Transfer of Property Act, 1882 " Section 116

Citation: (2004) 1 BLJR 66 : (2003) 4 JCR 609

Hon'ble Judges: Gurusharan Sharma, J

Bench: Single Bench

Advocate: N.N. Tiwari and Rajeev Ranjan Tiwary, for the Appellant; A.K. Srivastava, for the Respondent

Final Decision: Dismissed

Judgement

Gurusharan Sharma, J.

This revision has been filed u/s 14 (8) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982

(hereinafter to be referred to as "the Act") wherein the defendant has challenged the judgment and decree dated 22.7.2002, passed by the First

Subordinate Judge, Ranchi, in Eviction Title Suit No. 6 of 2000, directing the tenant to hand over vacant possession of the suit premises to the

landlord.

2. The Branch Officer of the United India Insurance Company Limited was located in the ground floor of the building situated over plot Nos.

211/C/1, C/11, 214, 13/1, 214, B/2. 213 (3), appertaining to Khata No. 11 at Doranda of Ranchi town, bearing Municipal Holding No. 32,

having an area measuring more or less 1500 sq. ft.

3. The owner of the aforesaid premises let it out to the defendant at a monthly rental of Rs. 5451/- for a fixed period of five years, commencing

from 1.6.1995 and ending on 31.5.2000 by virtue of a registered deed of lease. The tenant was given option for renewal of the lease for another

five years, subject to the increase of rent by 25% and on the terms and conditions agreed upon between the parties.

4. As per the aforesaid renewal clause of the lease deed, the tenant did not exercise its option for renewal of the lease by giving notice to the

landlord three months" prior or its expiry, The lease deed expired on 31.5.2000,

5. On 8.6.2000, the tenant in its letter to the landlord requested to renew the lease of the premises with effect from 1.6.2000 for a period of five

years, with 25% escalation at monthly rental of Rs. 6813.75 paise enclosing a cheque towards rental for the month of June, 2000.

6. The landlord returned the said cheque with a forwarding letter stating that rent in future would only be accepted only after a registered lease

deed is executed between the parties. No step was taken by the tenant thereafter and as such the land landlord asked the tenant to vacate the

premises on or before 15.7.2000 and hand over vacant possession of the same to him.

7. On 28.6.2000 the landlord, again requested he tenant to vacate the suit premises. On failure of the tenant to vacate the premises, after expiry of

the period of lease on 31.5.2000 as also within the time allowed till 15.7.2000, landlord sent another letter dated 18.7.2000 to the tenant, stating

that if the suit premises was not vacated immediately, a suit would be filed in the Court for eviction as also for damages @ Rs. 1000/- per day for

illegal occupation after 31.5.2000.

8. Again on 25.7.2000, letter was sent to the tenant asking to vacate the premises and pay the damage @ Rs. 1000/- per day to the landlord,

restricting his claim of damages only from 16.7.2000 onwards, although he was entitled to the damage with effect from 1.6.2000.

9. On 16.8.2000, the plaintiff filed the Eviction Title Suit No. 6 of 2000 seeking relief for a decree of eviction against the defendant under the Act

directing him to vacate the suit premises and to pay damages.

10. The defendant appeared, filed written statement and contested the suit. According to the defendant it was not correct to say that no step for

renewal of the lease was taken. On 8.6.2000 the tenant in its letter requested for renewal on enhancement of rent and sent one month's rental at

25% increased rate. It was always ready and willing for renewal of the lease and also acted accordingly. It was further pleaded that, in fact, the

plaintiffs wanted to increase the rental of the generator facility provided by him to the tune of Rs. 3,000/- per month, which was not accepted by

the defendant and thereafter the plaintiff withdrew the generator facility and asked the defendant not to keep its generator inside the boundary. It

was only for the disagreement of the defendant to increase the generator's rental, the plaintiff declined to renew the lease for further period and

filed the suit.

11. The parties adduced evidence both oral and documentary, in the suit. The lease deed, which expired on 31.5.2000, was marked as Ext. 2.

The defendant's letter dated 8.6.2000 was marked as Ext. 3 and the plaintiffs letters dated 24.7.2000, 25.7.2000 and 18.7.2000 were

respectively marked as Exts, 4, 5 and 6. The plaintiff had executed power of attorney in favour of his father, which was marked as Exhibit 1.

Plaintiffs father was examined in the suit as PW 1.

12. On the other hand, on behalf of the defendant, the Senior Divisional Manager of the Insurance Company was examined as DW 1. Copy of the

said lease deed was marked Ext. A. Letters dated 6.4.1995, 15.6.2000. 15.6.2000, 26.6.2000, 23.5.2000. 28.6.2000 and 21.6.2000 were

respectively marked as Exts. B, C, D, E, F, H and G.

13. Section 11 (1) (e) of the Act provides tenant's eviction after expiry of the fixed terms tenancy, it was the defendant, who had to take step for

renewal of the lease, but it failed to exercise option three months prior to the expiry of lease, for its renewal as provided.

14. PW 1 stated that the period of tenancy as per Ext. 2 expired on 31st May, 2000, and thereafter the plaintiff had also sent the draft of lease

agreement for further period, but thereafter the defendant did not take any step for renewal of the lease. I, therefore, find that in spite of giving

opportunity by plaintiff to the defendant for renewal of the lease, the defendant failed to renew the same after expiry of the period of lease on 31st

May, 2000. Hence, the suit for eviction of the defendant on the ground of expiry of lease u/s 11(1)(d) of the Act was maintainable and the

defendant was liable to be evicted from the suit premises.

15. So far as the defendant's allegation that the cause for non-renewal of the lease was the disagreement to enhance the rental of generator facility

provided by the plaintiff was concerned. I find that if it was true then there was no question of sending the draft lease deed by the plaintiff for

renewal of the lease.

16. Admittedly, the defendant did not take step for renewal of the lease before expiry of the lease, Ext. 2 and even after the plaintiff sent the draft

lease deed, no step was taken by them for execution of a fresh lease immediately thereafter. So, I am of the view that the defendant's allegation

regarding the generator matter was not established.

17. In the present case after expiry of the lease for a specified period of five years, the lessee is bound to give back the premises to the lesser. The

lesser has neither received any rent from the lessee, who is continuing in possession nor did any act indicating his intention to treat the lessee as his

tenant holding over. Hence, the landlord was not bound to give notice to quit before instituting the suit for eviction. Here the contractual tenancy, to

which the rent control legislation applied has expired by efflux of time and the tenant is continuing in possession of the suit premises, the said

possession is unauthorized and the tenant is accordingly a trespasser.

18. Possession of tenant cannot be held to be lawful by virtue of the principle of holding over, as element of consent of the part of the landlord is

missing in the present case. Notice to vacate indicate that the landlord never consented to continuance of the lessee in possession of the demised

premises, as per the provisions of Section 116 of the T.P. Act.

19. In the aforesaid circumstance, I find no reason to interfere with impugned judgment and decree in this revision. It is dismissed, having no merit.

No costs.