

केस का सं० ओर तारिख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारिख के साथ
1	2	3

IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI

J.B.C Appeal No.-18 R 15/2017-18

1) Sandeep Tigga

2) Sudhir Tigga

Both Sons of Late Jhirga Oraon

Resident of Near St Francis School, Argora,

P.S - Argora, District Ranchi

..... Appellant

-Versus-

M.D. The Bharat Sanchar Nigam Limited,

A Government Company Incorporated

under the Companies Act, 1956

Having its registered office at

Bharat Sanchar Bhawan, 4th Floor,

Harish Mathur Lane Janpath, New-Delhi -1

and having its office at BSNL Building,

Saheed Chowk, P.S. Kotwali, District Ranchi.

..... Respondents

ORDER

Present appeal has been preferred against the order dated 12.05.2017 passed by the Learned S.D.M. - Cum - Rent Controller, Ranchi in JBC Case No.-23 of 2016, whereby the learned courts below dismissed the application U/s 19 (1) (c), (d) & (e) of the Jharkhand Building (Lease, Rent & Eviction)

39
1.02.20

Ray

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Control Act, 2011 seeking eviction of the present respondent from property appertaining to Khata No.-196, Plot No.-1603 area 43.35 Sq.Ft. out of 22 ½ Decimals of land of Village Argora, P.S. Argora, District Ranchi.

Heard both the parties, according to the learned Advocate appearing on behalf of the appellant, the father of the appellant purchased the land appertaining to Khata No.-196, Plot No.-1603 measuring an area of 22 ½ decimals (i.e 15 Katha) of land situated at Village Argora, P.S. Argora, District Ranchi by virtue of a registered deed of sale bearing Sale Deed No.-7397 dated 07.07.1983 after obtaining necessary permission from the competent authority and also got his name mutated before the Circle Officer, Town Anchal vide Mutation Case No.-1912 of 1988-89 and started paying rent with respect of the same thereof and got boundary wall and little house erected over the same.

It is further submitted by the Learned Advocate of the appellant that the father of the appellant executed a lease deed dated 30.01.2009 for five years on rent for 43X35 Sq. Fts. out of the land in question on a monthly rent of Rs. 5,000/- and the respondent paid rent regularly to the father of the appellant for some period, but later he stopped paying the rent. The appellant's father on several occasions approached the respondent for rent but he lingered the matter.

It is further submitted on behalf of the appellant that the appellant's father requested the respondent to vacate the let out premises after the expiry of the lease period on December 2014, but the respondent did not vacate the premises and in the meanwhile the Jhirga Oraon, the father of the appellant died on 26.12.2015 leaving behind the appellants of this case as his legal heirs and successors who inherited came in peaceful possession of his property.

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(4)

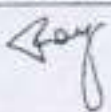
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It is further submitted by the Learned Counsel of the appellants that after the death of their father, the appellants requested the respondent to vacate the premises let out to it by Jhirga Oraon, but he is not vacating it, although the appellants are in personal need of the let out premises since the house in which they are residing does not fulfill the requirement of the appellants and they require the premises in question for their personal necessity too.

It is further submitted on behalf of the appellant that, the appellant requested the respondent in the month of January 2016 and on other subsequent date to vacate the suit premises, but the respondent vehemently refused to vacate the property and the respondent after refusing the request of the petitioner to vacate the suit premises is illegally and wrongly occupying the suit property let to it and also by not paying rent since long and expiry of lease period, the respondent has made him liable to be evicted from the suit premises.

On the other hand according to the Learned Advocate appearing on behalf of the respondent the proceeding initiated below is not maintainable in view of the fact the provisions of JBC Act, 2011 is not applicable upon the parties as according to Section 2 (b) of the Act of 2011, the provision of the act applied to building or hut leased for residential or non-residential purpose, but in case at hand, respondent was not inducted as tenant upon a Building /Hut and moreover the respondent has installed BTS (commonly known as mobile tower) upon the land of Mr. Jhirga Oraon vide proper contract and shall be governed by the Indian Telegraph Act 1885 only and the B.T.S. does not come under the meaning building as such no case under Jharkhand Building (Lease, Rent and Eviction) Control Act is maintainable against the Opposite Parties.

Further according to the Learned Advocate, as per Clause



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4

23 of contract, parties have agreed to resolve the dispute vide Arbitration & Conciliation Act 1996 and once it has not been exhausted as such no court has jurisdiction to entertain disputes between parties.

It is further submitted on behalf of the respondent that, the appellants have neither filed legal heirs of the Late Jhinga Oraon in J.B.C. case nor informed the office of the Opposite Party Respondent till date about the same. The Opposite Party is ready to pay the rent as soon as this Hon'ble court may pass order to pay and to whom it is payable.

Having heard both the parties and on perusal of material available on record, I find that, as per Para 1 B of the rent agreement dated 30th January 2009, *In consideration of the rent hereinafter reserved and of the other conditions herein contained, the Lessor agrees to let out and lessee agrees to take on lease the land, hereditaments and premises known s Balibagicha, Near St Louis High School, Harmu Ranchi together with all buildings and erection, fixtures and fittings standing and being therean building related service (external & internal).*

The above recital of the agreement dated 30.01.2009 goes to suggests that building was been leased to the respondent for five years and the lease period has already expired in the year 2014, but the respondent is occupying the premises in question after the expiry of lease period and since it is also admitted by both the parties that lease rent has not been paid since long, so the respondent has made itself liable to be evicted from the premises in question.

Hence for the reasons aforementioned, the instant appeal is allowed and the order passed by the learned courts below is hereby set-aside. The respondent is directed to vacate the premises in question and pay all the dues rent to the appellant within a fifteen days, failing which the appellant shall



3

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5

have liberty to get the respondent evicted by filing execution case against the respondent before the learned courts below.

Communicate this order to Sub-Divisional Officer – Cum – Rent Controller, Sadar, Ranchi for information and needful.

Dictated and corrected by me

Ray 1/2/20
Deputy Commissioner
Ranchi

Ray 1/2/20
Deputy Commissioner
Ranchi

Order communicated to S.O.-M. cum House controller Ranchi along with L.C. record VAO Sandeep 71889 other IS. Bharat Sadar 3/190m for info necessary action vide memo no 207 (ii) dt. 6-2-20