

क्रमांक सं० और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारीख के साथ
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IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI

MISC APPEAL NO.-31 R 15/2018-19

Pramila Kumari D/o Late Durga Sahu @ Karia Sahu
Resident of Argora Ashok Nagar Ashram Colony, P.S. Argora,
District -Ranchi Appellant

VERSUS

1. Mahadev Saw S/o Chintaman Saw
2. Rahil Devi W/o Balram Pradhan
3. Sandhya Karketta D/o Simone Karketta
4. Vijay Topno W/o Ignasiyus Topno
5. Mamta Devi W/o Dipu Ram


All resident of Argora Bali Bagicha, P.O. Argora,
P.S. Argora, District - Ranchi, Respondents

ORDER

Present appeal has been preferred against the order dated 24.02.2018 passed by Learned House Rent Controller-cum-SDM, Ranchi in Case No. MP 25 to 31/2016, whereby and where under the Learned House Rent controller dropped the proceeding of execution of the decree for eviction passed in JBC Case No.-111 to 117 of 2015 after holding that, the premises in question has been occupied by the new tenants, therefore execution of the eviction order passed in JBC case No. 111 to 117/2015 cannot be given effect to.

Heard the appellant on the point of admission. As per the Learned Advocate appearing on behalf of the appellant, the impugned order is wholly erroneous and contrary to the law and fact or circumstances of the case as well. The impugned order has got no legal leg to stand in the eyes of law as very purpose of the legislature behind enactment of JBC Act has been defeated,

The appellant holds and possesses the land and the



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केस का सं० और तारिख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारिख के साथ
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building standing over plot no. 1606 under Khata No. 115 having an area 16 decimal of Village Argora, which has been purchased by her through registered deed of sale being Deed No. 5418 dated 15.04.2005. She has got her name mutated in the Office of Town Anchal, Ranchi vide mutation case No. 2393R27/2005-06 and also in the office of Ranchi Municipal Corporation, Ranchi vide Mutation Case No.-1978/2006/00323 dated 30.08.2017.

The premises in question comprise of 11 separate residential units, which has been let out to different tenants, who use to pay rent to the appellants. As the tenants stopped paying rent since March 2015 and also out of her personal necessity, she filed cases for eviction of the tenant before the House Rent Controller -cum-Sub-Divisional Officer, Sadar, Ranchi which were numbered as JBC Case No. -111 to 121/2015. Out of 11 (eleven) cases four tenants have appeared and contested the case and the remaining seven didn't come forward to contest the case despite sufficient service of notice. The aforesaid case was therefore fixed for ex-parte hearing against seven tenants. The matter was heard at length in by the learned Rent Controller and the order for eviction was passed in terms of order dated 04.03.2016. The parties to the said case didn't quit and vacated the tenanted premises despite order of the competent court hence the appellants preferred impugned Misc. Case No.- 25 to 31/2016 before the learned Rent Controller.

Against the aforesaid order dated 04.06.2016, six appeals were preferred by one Phuduwa Devi, claiming herself to be the landlady of the premises in question. All the record of aforementioned six appeals were amalgamated and after hearing the parties in length, Learned the then Deputy Commissioner, Ranchi dismissed all the six appeals being JBC Appeal Nos.- 45 to 50 R 15/2016-17 and thereby affirmed the aforementioned order dated 04.03.2016 passed by the Learned Rent Controller The said Phuduwa Devi thereafter preferred WP



सं. का सं० और तारीख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारीख के साथ
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(C) No. 7749/17 before the Hon'ble High Court, which were also dismissed vide order dated 05.02.2018.

In impugned execution proceeding being Misc Case Nos.-25 to 31 of 2016, the Learned Rent Controller, deputed Magistrate and Police force, who were able to deliver the vacant possession of only two tenanted premises and possession of the rest of the tenanted premises could not be made on the ground that the same was found to be occupied by the new tenants. The appellant has not inducted any new tenant over the premises in question and the respondent has conspired against the appellant in order to overcome the process of court. The learned Court should have considered that any person claiming through or under the tenant is bound by the eviction order. Therefore the impugned order is fit to be set-aside.

Having heard the appellant and on perusal of material available on record, I find that, the present appellant vide impugned proceeding being Misc Case Nos.-25/2016 to 31 of 2016 had sought for execution of the eviction decree passed in JBC Case No. -111 to 117/2015. As per the impugned order passed in Misc Case No.-25/2016, I find that, the Learned House Rent controller was able to deliver the possession with respect of the premises being the subject matter of JBC Case No.-113/2015 and JBC Case No.-116/2015 by evicting the Opp. Parties namely Rajesh Sahu and Arun Bhagat respectively on 30.01.2018. He has dropped the proceeding of execution of the decree for eviction passed in JBC Case Nos.- 111/2015, 112/2015, 114/2015, 115/2015 and 117/2015 after holding that, the premises in question has been occupied by the third person.

As per Order XXI of CPC, the executing court i.e. in the present matter, the court of Rent Controller – Cum – Sub-Divisional Officer, Sadar, Ranchi himself has the jurisdiction to execute the decree and to adjudicate the objections (if any) raised while executing the decree.



का सं० र तारिख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारिख के साथ
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The new occupant (if any) must be evicted from the premises in question, otherwise every time new occupant would reside therein forcefully and the landlord would be precluded from realizing the fruits of the decree.

For the reasons aforementioned, the impugned order dated 24.02.2018 passed by the learned Courts below in MP Case No.-25/2016 is hereby set-aside. The matter of remanded back to the House Rent Controller – Cum – Sub-Divisional Officer, Sadar, Ranchi with a direction to enquire into the matter, whether the present occupant of the premises have entered in possession of the same, in order to evade the consequence of the decree during the pendency of the impugned cases? The learned courts below after making enquiry shall deliver the possession of the premises in question to the appellant after evicting the occupant (who so ever) from the premises in question on the basis of decree passed in JBC Case No.-111/2015, 112/2015, 114/2015, 115/2015 and 117/2015 in accordance with law.

Communicate the order to the House Rent Controller – Cum – Sub-Divisional Officer, Sadar, Ranchi for information and necessary action.



Deputy Commissioner
Ranchi

Dictated and Corrected by



Deputy Commissioner
Ranchi