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Order No. & date	Order & signature of the Officer	Comments & the action taken on the order with date
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07-02-2020	<p style="text-align: center;">COURT OF DEPUTY COMMISSIONER, SERAIKELLA-KHARSAWAN</p> <p style="text-align: center;"><u>ORDER</u> <u>Eviction Appeal No. – 04/2018-19</u> <u>Sahid Parwez Vrs. Khalid Parwez & Ors.</u></p> <p>This appeal has been preferred in this court by Sahid Parwez, S/o Jamil Ahmad, vill – Kapali, Dobo, T.O.P. Colony, P.O+P.S. – Kapali, Dist – Seraikella-Kharsawan and Shop no. 3, Nisha Medicals, T.O.P. chowk, P.O+P.S – Kapali, Dist – Seraikella-Kharsawan against the Order dated 06.06.2018 passed by S.D.O. Chandil in Eviction Case no. 04/2017. Accordingly the case is registered in this court and notice has been issued to the opposite parties.</p> <p>The Learned Counsel on behalf of the appellant in his written submission submitted that the Learned lower court below failed to appreciate that the case has been filed by the power of attorney holder and possession can not be delivered to power of attorney holders. There is not a single chit of paper to show that the present appellant has not paid the monthly rent to the respondent no. 3, as alleged by him. The land lord accepted monthly rent even after expiry of the tenancy period that itself shows that the tenancy continues between the parties.</p> <p>Further it is also submitted that the case of bonafide requirement of the tenanted premises did not stand as he has not proved the case as required by law. There are shops adjacent to the tenanted premises belonging to respondent no. 3. which are lying vacant and the respondents can use the same. Admittedly the respondents have never</p>	

issued monthly rent receipt and therefore suddenly they cannot say the appellant has not paid monthly rent from a particular month, the respondents ought to have proved the same by adducing evidence and no such evidence has been laid in the learned court below. Therefore it is prayed by the appellant side to remand the case back to the Learned lower court for proper adjudication.

The Learned Counsel on behalf of the respondents submitted that as per the legal notice dated 07.01.2016 the respondents had clearly said that the appellant did not pay the monthly rent of Rs. 1400/- and electry bill of Rs. 250/- per month only as per the rental agreement executed on 12.03.2013 and the appellant did not pay the monthly rent in year 2014 and 2015 since Nov. 2013, so a total sum of Rs. 1.10,000.00 (One lakh ten thousand) became due monthly rent to the appellant. As per sub clause 4 of section 21 of Jharkhand Building Lease, Rent and Eviction Control Act 2011, there is a mandatory provision that tenant shall not contest the prayer for eviction from the building unless he files affidavit stating grounds on which he seeks to make such contest but the appellant have not filed any grounds on affidavit as required by sub clause 4 of section 21 of the said act for contesting the said eviction suit so the order passed by the learned controller is correct.

Further it is also submitted that even after getting legal notice the appellant did not pay the due monthly rent as per the rent agreement and tried to threaten the respondent for implicating in false criminal cases. The appellant have been given proper opportunity by the Learned court of controller and after that the order for vacating the suit shop

premises was passed. Proper opportunity had been given to the appellant in the Learned lower court of controller. The said Eviction case no. 04/2017 was decided by the Learned controller on the basis of evidence of default in paying monthly rent for consecutive months and on the evidence of bonafide requirement of the said suit premises by the respondents as they want to establish business through the said suit shop premises.

Having considered the submissions made by the parties and on perusal of the documents placed on the record I find that the order passed by the Learned lower court of the controller was rightly done in view of the parameters of law as the appellant is not paying rent regularly to the respondents and the respondents need the said premises for their bonafide requirement. Therefore the appeal filed by the appellant is hereby rejected and hence the case is disposed off.

Dictated & Verified


Deputy Commissioner
Seraikella-Kharsawan


Deputy Commissioner
Seraikella-Kharsawan