

IN THE COURT OF COMMISSIONER SANTHAL PARGANA
DIVISION, DUMKA

H.R.C. Revision No. - 1/2008-09

Bukia Bibi & Others ----- Petitioners

-: Versus :-

Md. Jalil Mian & Others ----- Opposite Parties

9/5/2022

ORDER

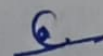
This instant revision has been preferred against the order dated - 06.02.2008 passed by the Deputy Commissioner, Dumka in H.R.C. Appeal No. - 02 of 1997-98.

Learned counsel for the petitioners submitted that land J.B. No. - 2, Plot No. - 313, total area - 2 Bigha 14 Kathas 10 Dhurs of Mouza - Hansdiha, Anchal - Saraiyahat, Dist. - Dumka stands recorded in the name of Amrit Chaudhary and Motilal Chaudhary in Gantzer's Settlement Purcha. One Most. Bhuto W/o Lalit Narayan Chaudhary gifted 1 Katha 10

6

Dhurs of land in Plot No. - 313 of Mouza - Hansdiha to Dukha Mian S/o Late Rohan Mian for construction of house vide unregistered gift deed dated - 04.02.1982. The O.Ps. father Md. Ali Mian filed a petition in the court of S.D.O. Cum Rent Controller Dumka alleging therein that one Kharitan Bibi D/o Nabi Mian was inducted tenant in one room with Varandah of his house existing in plot no. - 313 on monthly rental of Rs. 10/- on 15.05.1967, which is less than the present market value, hence pray for enhance the rent of the said tenancy to Rs. 500/- per month, otherwise the said house be vacated from petitioners. The S.D.O. after hearing both the parties and perusal of documents pass order to enhance the monthly rent from Rs. 10/- to Rs. 200/- per month and also pass order if petitioner fails to pay the dues monthly rent then vacate the house. Petitioner filed appeal before the Deputy Commissioner Dumka against the order of S.D.O. but the court below wrongly and illegally confirming the impugned order of Subdivisional Officer Cum House Rent Controller. The orders of courts below are against the Provision of Law. Hence pray for set aside.

Learned counsel for the opposite party



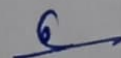
submitted that the present revision has been filed against two concurrent findings of Deputy Commissioner Dumka and S.D.O. Dumka Cum House Controller. Admittedly five rooms with Varandah existing over last Settlement Plot No. - 313 in respect of J.B. No. - 2 of Mouza - Hansdiha belonging to Opposite Party had been let out to one Kharitan Bibi predecessor in interest of the petitioners on monthly rent of Rs. 10/- per month in the year of 1967. Petitioners are habitual defaulter in payment of rent and huge amount of rent became due against the petitioners in which father of the O.Ps. filed Money Suit No. - 4 of 1970 and 5 of 1973, subsequently settled between the parties as the arrear amount was paid by the tenant to father of the O.Ps.

Learned counsel submitted that O.Ps. father filed H.R.C. Case No. - 17 of 1995-96 praying for fixation of rent under Section 5 of Bihar Building Control Act 1982 in the court of S.D.O. Cum House Controller Dumka. S.D.O. inquired the matter and after holding that father of the present O.Ps. are owner and landlord of the house. Petitioners are occupying the house as tenant at the rate of Rs. 10/- only, thereafter pass

6

order for enhanced the rent of the house from Rs. 10/- to Rs. 200/- failing which the petitioners are liable to vacate the said house. But the petitioners by confusing the court and by concealing materials facts have tried to grab the land and house of the O.Ps. filed this revision before your honour's court. Petitioners are fully rank outsiders having no any right, title over the land and house in question. During Present Survey Settlement Plot No. - 313 Area - 6 Katha 4 Dhurs of land for which Purcha has been prepared in the name of the O.Ps. Accordingly the petitioners are liable to be directed to pay the entire rent at the rate of Rs. 200/- per month from date of order of the H.R.C. Dumka, otherwise petitioners are liable to be evicted form the said house in question.

Heard the learned lawyer of both parties and perusal of documents available on record I find the land Sabik J.B. No. - 2, Plot No. - 313 of Mouza - Hansdiha No. - 51 Anchal -Saraiyahat, Dist. - Dumka stands recorded in the name of Amrit Chaudhary and Motilal Chaudhary in Gantzer's Settlement Purcha. Plot No. - 313, Area - 6 Katha 4 Dhurs of land was acquired by the O.Ps. ancestors in Exchange Case No. -



206 of 1936-37. Petitioners claimed over the Plot No. - 313 on the basis of unregistered gift deed year of 1982 executed by Most. Bhuto W/o Lalit Narayan Chaudhary. From the perusal of entire documents and report of Circle Officer Saraiyaht it is established that Opposite Parties are the exclusive owner and landlord of the house exist in plot no. - 313, Area - 6 Katha 4 Dhurs of land, whereas the petitioners are tenant. The claim of the petitioners are over the house existing in Plot No. - 313 is baseless as they are outsider having no any legal status or related to the ancestors of the O.Ps. Petitioners are occupying the house constructed five rooms along with one Varandah, one well of the O.Ps. as tenant at the rent of Rs. 10/- only. The Sub-divisional Officer Cum House Rent Controller Dumka rightly enhanced the rent of the house from Rs. 10/- to Rs. 200/- due to enhancement of repairing cost and to development of the locality. The court below also upheld the order of S.D.O. Cum House Rent Controller Dumka. I find petitioners are habitual defaulter in payment of rent and only to give mental harassment to the O.Ps. encroaching the said premises with non-payment of rent.

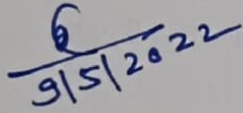
6

(6)

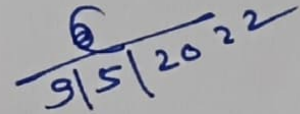
Hence the Circle Officer Saraiyahat is direct to vacate the tenant premises from petitioners exist in J.B. No. - 2, Plot No. - 313 over Area - 6 Katha 4 Dhurs of land of Mouza - Hansdiha under P.S. - Hansdiha Dist. - Dumka and same to be give delivery of possession to the O.Ps. within 7 days from this order.

Revision having no merit, hence dismissed.

Dictated and Corrected by me.


9/5/2022

Commissioner
S.P. Division, Dumka.


9/5/2022

Commissioner
S.P. Division, Dumka.