

In The Court of Commissioner, Saran Division, Chapra

1. House Control Revision Case No. 60/2008
Dr. Purnendu Ojha
Vrs.
Executive Engineer, REO, Chapra
2. House Control Revision Case No. 61/2008
Dr. Purnendu Ojha
Vrs.
Executive Engineer, REO (NH) Chapra
3. House Control Revision Case No. 62/2008
Dr. Namita Ojha
Vrs.
Executive Engineer, P.W.D., Chapra

ORDER

These three House Control Revision cases are preferred against the order passed by Collector, Saran in House Control (Rent fixation) appeal No. 03/2001 Dr. Purnendu Ojha vrs. Executive Engineer REO, Chapra on 28.01.2008 and analogous appeals. Since the learned counsel for the petitioner states that issue involves in all these cases are same and as such, the same may be disposed of by a common order. Hence these revision cases are being disposed of with a common order.

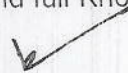
As the original petitioner Ram Bilash Ojha of House Control Revision No. 60/2008 died during the pendency of the case before this court, his legal heir Dr. Purnendu Ojha was substituted in his place in House Control Revision No. 60/2008 as per the order of this court dated 07.08.2012.

The brief facts of these three cases are that the petitioners are the owner of a big building in prime location of Chapra town which was rented for running Govt. offices like O/o Executive Engineer, REO, Chapra, O/o Executive Engineer REO (NH) Chapra and O/o Executive Engineer, PWD, Chapra since long on mutually agreed fair rent. Further case is that on escalation of price index and in view of escalating prices of commodities, these petitioners filed petitions to the Rent Controller i.e. SDM, Chapra Sadar for re-fixation of fair rent in view of escalating prices which was rejected. Thereafter, three House Control (Rent fixation) appeals bearing No. 03/2001, 04/2001 and 05/2001 were filed before D.M., Saran. The learned D.M., Saran on obtaining a report from Director NREP, Saran. After hearing the petitioners, considering the report of Director NREP, D.M., Saran finally rejected the appeals through a common order dated 28.01.2008 wherein he confirmed the order passed by SDO.

On being aggrieved by and dissatisfied with the aforesaid order passed by D.M., Saran in the aforementioned three appeal cases, these petitioners have preferred three revision case before this court.

Heard the learned counsel for the parties and also perused the written arguments filed by them.

The learned counsel appearing on behalf of the petitioner in all the above revision cases, submitted in detail about the premises, facility made available to them, carpet area, built up area, prevailing market rent and location of the premises in order to strengthen his view that his petitions for re-determination of rent before Rent Controller, (the SDO), was just and proper. He further submitted that as the SDO, rejected his prayer for re-fixation of rent he had no other option than to file appeals before Collector. But the learned D.M. without considering the fact that tenants/occupants had not filed any objection before lower court nor before appellate court, in spite of notice and full Knowledge of case and without considering the

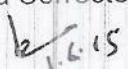



facts that more than 10 years had elapsed since last rent fixation was done and during that period market and rent jumped more than 4 to 5 times since fixation, dismissed the appeals in the year 2008. The learned counsel further argued that some important question still remains to be answered or considered in these revision cases like (a) whether price index of Market are raising day by day or not ? (b) Whether every person including Govt. official, were being compensated by Govt. or not along with escalation of price? (C) Whether material cost, repairing cost the labour cost are escalating day by day or not? (d) Whether provision are made in law to revise the rent according to market or not?. He further argued that if the answer to all his questions are in affirmative, then these petitioners are certainly entitled for the enhancement of rent of their rented premises. The learned counsel lastly submitted that as there is no opposition by tenant regarding the enhancement of rent, the order of SDM, Chapra and D.M., Saran are bad in law and facts, so these revisions be allowed and SDM be directed to revise the rent of the premises according to market rent prevailing in area of similar accommodation on the basis of sq. ft. area.

The learned Govt. Pleader appearing on behalf of the respondents in these revision cases submitted in the very beginning of his argument that ground mentioned for condonation of delay is not sufficient in these cases. He further submitted that the respondents are the tenants of the petitioners. The previous rent was Rs. 1000/- and the learned court below enhanced the rent to Rs. 3400/- per month even then the petitioner has filed revision case. He also argued that amenities in the premises were as before and no step was taken by the petitioner to improve the same and the present rent is very much in tune with prevalent construction rent in the vicinity. He also pleaded that rent fixed by the learned SDO is just, proper and valid and the Controller has no power or jurisdiction to order for payment of arrear of rent rather he has only jurisdiction to determine future rent. Even this court has got no jurisdiction to grant arrear of rent. He lastly prayed that these revisions be dismissed with cost.

Considering the facts and circumstances of the case as well as material available on records and on going through the impugned order as well as the written statements submitted by the learned counsel for the parties, it is apparent that the claim of the petitioners is based on the fact that as the general price index has escalated over the years. The rent of his rented premises needs to be revised and for this purpose he approached the Rent Controller. But the rent Controller, on making a personal enquiry by himself of the premises, he found that neither any amenities have been improved nor any extra facilities like provision of garage has been provided to the tenant which was agreed upon by the landlord and on this ground he expressed his inability to re determine the rent. Even the learned Collector, on not finding any substantial reasons in the claim of the landlord, confirmed the order of SDO and rejected the appeals. The learned G.P. on the other hand questions about the jurisdiction of appellate and revisional authority with regard to payment of arrear what alleged to be due on the tenants for quite some time as claimed by the landlord. The plea advanced by learned G.P. certainly has some basis in view of the provisions of Bihar Buildings (Lease, Rent and Eviction) Control Act as the Controller and not the appellate or revisional authority are competent enough to order for the payment of arrear of rent. The learned counsel also miserably failed to point out any specific error or infirmity in the impugned order passed by Collector so as to attract any interference by this court. It is quite apparent that the learned Collector, Saran while passing the impugned order has considered all aspects of the case in its totality. As such I do not find any reason to interfere with the impugned orders.

For the aforesaid reasons, the impugned orders are upheld and these revisions are dismissed, accordingly.
Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


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Saran Division, Chapra