

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
W.P.(C) No.1563 of 2021**

1. Narayan Modi  
2. Teko Sao  
3. Ram Dutt Chourasia ..... ... Petitioners

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Urban Development and Housing, Project Building, Dhurwa, Ranchi.  
2. The Deputy Commissioner, Bokaro.  
3. The Sub-Divisional Officer, Chas, Bokaro.  
4. Birendra Prasad Sinha @ Birendra Prasad Singh. .... Respondents

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**CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Petitioners : Mr. Baibhaw Gahlaut, Advocate  
For the Res. Nos.1 to 3 : Mr. Rohit, A.C. to A.A.G.-I  
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02/12.04.2021 The present writ petition is taken up today through Video conferencing.

**2.** Learned counsel for the petitioners submits that he has already removed the remaining defects on 9<sup>th</sup> April, 2021, as pointed out by the office including the payment of deficit Court fee.

**3.** The present writ petition has been filed for the following reliefs:-

(A) For quashing of the order dated 22<sup>nd</sup> March, 2021 (Annexure-4 to the writ petition) passed by the court of Sub-Divisional Magistrate-cum-Controller, Chas-the respondent no.3 (including any/all consequential steps), wherein the Sub-Divisional Magistrate has issued direction in Execution Case No.18 of 2017 to the petitioner no.1 for eviction of the tenanted premises despite the fact that the J.B.C.A. Appeal No.116 of 2021 filed by the petitioner no.1 has been admitted by the court of the Deputy Commissioner, Bokaro-the respondent no.2 on 19<sup>th</sup> February, 2021 in the light of the order dated 19<sup>th</sup> January, 2021 passed by this Court in W.P.(C) No.5261 of 2017 and Section 39 of the Jharkhand Building (Lease, Rent & Eviction) Control Act, 2011 (in short 'Act, 2011') do not provide for execution of those orders of the Controller where appeal has been preferred under Section 36(1) of the Act, 2011.

(B) For quashing the order dated 22<sup>nd</sup> March, 2021 (Annexure

4A to the writ petition) passed by the respondent no.3 (including any and all consequential steps), wherein the said respondent has issued direction in Execution Case No.17 of 2017 to the petitioner no.2 for eviction of the tenanted premises despite the fact that the J.B.C.A. Appeal No.112 of 2021 filed by the petitioner no.2 has been admitted by the court of the respondent no.2 on 19<sup>th</sup> February, 2021 in the light of the order dated 19<sup>th</sup> January, 2021 passed by this Court in W.P.(C) No.5265 of 2017 and Section 39 of the Act, 2011 do not provide for execution of those orders of the Controller where appeal has been preferred under Section 36(1) of the Act, 2011.

- (C) For quashing the order dated 22<sup>nd</sup> March, 2021 (Annexure 4B to the writ petition) passed by the respondent no.3 (including any and all consequential steps), wherein the said respondent has issued direction in Execution Case No.19 of 2017 to the petitioner no.3 for eviction of the tenanted premises despite the fact that the J.B.C.A. Appeal No.114 of 2021 filed by the petitioner no.3 has been admitted by the respondent no.2 on 19<sup>th</sup> February, 2021 in the light of the order dated 19<sup>th</sup> January, 2021 passed by this Court in W.P.(C) No.5262 of 2017 and Section 39 of the Act, 2011 do not provide for execution of those orders of the Controller where appeal has been preferred under Section 36(1) of the Act, 2011.
- (D) For issuance of direction upon the respondents to not execute the order dated 25<sup>th</sup> May, 2017 passed by respondent no.3 in J.B.C.A. Case No.27 of 2016 during pendency of the J.B.C.A. Appeal No.116 of 2021 filed by the petitioner no.1.
- (E) For issuance of direction upon the respondents not to execute the order dated 25<sup>th</sup> May, 2017 passed by the respondent no.3 in J.B.C.A. Case No.26 of 2016 during pendency of the J.B.C.A. Appeal No.112 of 2021 filed by the petitioner no.2.
- (F) For issuance of direction upon the respondents not to

execute the order dated 25<sup>th</sup> May, 2017 passed by the respondent no.3 in J.B.C.A. Case No.25 of 2016 during pendency of the J.B.C.A. Appeal No.114 of 2021 filed by the petitioner no.3.

**4.** The case of the petitioners is that they being aggrieved with the orders dated 25<sup>th</sup> May, 2017 passed by the Sub Divisional Officer-cum-Controller, Chas-the respondent no.3 in J.B.C.A. Case Nos.27 of 2016, 26 of 2016/Title (Eviction) Suit No.24 of 2016 and 25 of 2016/Title (Eviction) Suit No.25 of 2016 respectively filed memos of appeal on 2<sup>nd</sup> February, 2021 before the appellate authority-the respondent no.2 being J.B.C.A. Appeal Nos.116 of 2021, 112 of 2021 and 114 of 2021 respectively in terms with the observation made by this Court as contained in order dated 19<sup>th</sup> January, 2021 passed in W.P.(C) Nos.5261 of 2017, 5265 of 2017 and 5262 of 2017. The said appeals were admitted on 19<sup>th</sup> February, 2021 and the next date was fixed as 23<sup>rd</sup> March, 2021.

**5.** The grievance of the petitioners is that despite the said memos of appeal being admitted by the respondent no.2, the respondent no.3 has passed orders on 22<sup>nd</sup> March, 2021 directing the concerned Executive Magistrate to get the premises in question vacated on 25<sup>th</sup> March, 2021. It is submitted by the learned counsel for the petitioners that though the process of eviction of the petitioners from the premises in question could not be carried out on the said date, yet the petitioners have reasonable apprehension that they may be evicted from the said premises any day, despite the fact that the memos of appeal preferred by the petitioners before the respondent no.2 are still pending. It is also submitted by the learned counsel for the petitioners that the respondent no.2 is not taking up the petitioners' applications seeking interim order in the pending memos of appeal. It is further submitted on instruction that said memos of appeal have been fixed in the court of the respondent no.2 tomorrow i.e., 13<sup>th</sup> April, 2016.

**6.** Heard learned counsel for the petitioners as well as the learned counsel for the respondent nos.1 to 3 and perused the content of the writ petition.

**7.** It appears that the petitioners' memos of appeal filed on 2<sup>nd</sup>

February, 2021 under Section 36 of the Act, 2011 were admitted by the respondent no.2 vide order dated 19<sup>th</sup> February, 2021 and the notices were issued to the respondent no.4 (the landlord of the premises in question) on the same day. Both the aforesaid orders, however, do not reflect that counsel for the petitioners pressed the applications for interim relief. Thereafter, the respondent no.3 passed the orders dated 22<sup>nd</sup> March, 2021 directing the Executive Magistrate, Bokaro to take steps for petitioners' eviction from the premises in question on 25<sup>th</sup> March, 2021. According to the learned counsel for the petitioners, the process of eviction could not be carried out on 25<sup>th</sup> March, 2021 by the concerned Executive Magistrate, however they are apprehensive of their eviction from the premises in question during pendency of the appeal before the respondent no.2.

**8.** Since it does not appear from the record that the counsel for the petitioners have pressed the applications for interim relief in respective memos of appeal on earlier dates, the orders dated 22<sup>nd</sup> March, 2021 passed by the respondent no.3 cannot be interfered with.

**9.** The petitioners are, however, at liberty to get their applications for interim relief in pending memos of appeal pressed before the respondent no.2. If the said applications are pressed on behalf of the petitioners, the respondent no.2 is duty bound to pass appropriate orders on the same after providing due opportunity of hearing to the concerned parties.

**10.** The writ petition is accordingly disposed of with aforesaid observation.

**(Rajesh Shankar, J.)**