

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.39 of 2012

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1. Smt. Rajeshwari Devi W/O Shri Ram Chandra Shinde
2. Ram Chandra Shinde S/O Anand Row Shinde Original Resident Of The
State Of Maharastra Of Village Holichagaon, S-Wadiz, District Satara
At Maharashtra-Presently Residing At Bhatta Bazar, Lakhan Chauk
(Priyanka Golden Police Centre), P.S. K. Hat, District Purnea
..... Defendants Appellants
..... Appellants

Versus

1. Gopal Pd. Sah Son Of Late Ram Prasad Sah Resident Of Bhatta Bazar,
Lakhan Chauk, P.S. K.Hat, Distt. Purnea
2. Chandra Mohan Prasad Sah Son Of Late Ram Prasad Sah Resident Of
Bhatta Bazar, Lakhan Chauk, P.S. K.Hat, Distt. Purnea
3. Krishna Mohan Prasad Sah Son Of Late Ram Prasad Sah Resident Of
Bhatta Bazar, Lakhan Chauk, P.S. K.Hat, Distt. Purnea
4. Most. Ladowati Devi W/O Late Ram Prasad Sah Resident Of Bhatta
Bazar, Lakhan Chauk, P.S. K.Hat, Distt. Purnea
..... Plaintiffs Respondents
..... Respondents

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Appearance :

For the Appellant/s : Mr. Suresh Chand Giri
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

10 06-11-2015

Heard learned Counsel for the appellants.

2. The defendant-tenants are the appellants in this appeal against the judgment and decree of affirmance.

3. The plaintiffs filed the suit for eviction of the defendants from the suit premises on the ground of default in payment of rent, personal necessity and also on the ground of breach of the terms of tenancy.

4. The defendants in their written statement accepted that till 1988 they had been the tenants in the suit premises but thereafter they continued in possession of the same in pursuance of the agreement for sale by the original owner Ram Prasad (predecessor

of the plaintiffs). The defendants thus admitted not to have paid rent since after 1988.

5. The courts below have taken into notice the fact that the defendants filed T.S. No. 175 of 2001 for specific performance of contract on the basis of alleged agreement for sale and further that the said suit was dismissed holding that the said agreement for sale was a forged and fabricated document.

6. Learned Counsel for the appellants has reiterated the submissions made before the courts below. It has also been submitted that the grounds of personal necessity and issue of partial eviction have not been correctly decided.

7. After perusal of the judgments of the courts below and considering the submissions, it is manifest that defendants were admittedly the tenant in the suit premises but have come out with the case that their status as tenant in the suit premises has changed on the basis of agreement for sale by the original owner in the year 1988. The defendants have accepted not to have paid rent to the plaintiffs thereafter. However, the fact has not been denied that T.S. No. 175 of 2001 filed by the defendants for specific performance of contract on the basis of alleged agreement for sale has been dismissed holding the said agreement to be forged and fabricated. In that view of the matter, the courts below have rightly come to the conclusion that the defendants have committed default of more than two months in payment of rent for the suit premises to the plaintiffs.

8. This Court comes to the conclusion that the finding recorded by both the courts below on the issue of default in payment

of rent by the defendant does not suffer from the vice of illegality or perversity in any manner. In view of the concurrent finding on the issue of default, this Court does not find it necessary to go into the merit of the submissions on the issue of personal necessity and partial eviction.

9. Ex consequenti, this Court does not find any substantial question of law arising in this appeal for consideration, which is, accordingly, dismissed.

(V. Nath, J.)

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