



.... Petitioner/s

1. Smt. Sushila Devi Wife of Late Gautam Prasad
2. Arun Kumar Son of late Gautam Prasad
3. Anil Kumar Son of late Gautam Prasad
4. Ajay Kumar Son of late Gautam Prasad, All residents of Mohallah-  
Daldali Bazar, P.O.:- Chapra, P.S.- Chapra Town, District- Saran.

.... Respondent/s

For the Petitioner/s : Mr. M.N. Parwat, Sr. Advocate.  
For the Respondent/s : Mr. Shambhu Singh, Advocate.

3      21-09-2015      Heard Mr. M.N. Parwat, learned senior counsel for the  
petitioner and Mr. Shambhu Sharan Singh learned counsel for the  
respondents.

The facts are not in dispute that the eviction suit no. 12 of 2005 has been filed by the plaintiff respondents seeking eviction of the writ petitioner on the ground of personal necessity alone. The defendant writ



petitioner appeared and has filed a written statement contesting the assertion of the plaintiff regarding the existence of bonafide personal necessity. The relationship of land lord and tenant however, has not been denied. During the pendency of the suit the defendant writ petitioner filed a petition under Order VI Rule 17 and section 151 Civil Procedure Code on 17.04.2015 praying for amendment in the written statement by adding paragraph 9 A in the written statement. The averments which have been sought to be included by way of amendment are already therein paragraph 13, 24 and 30 of the written statement filed by the defendant writ petitioner. Mr. Parwat, learned senior counsel has submitted that the need for seeking the amendment arose when the defendant came to know that in another title suit No. 2 of 2012 where the present plaintiff has been impleaded as defendant, the statement in the written statement in that suit have been made to the effect that the defendant no.2 Arun Kumar is karta of the joint family and Arun Kumar and his brother are not unemployed and are doing business . It has been submitted by learned counsel that as the aforesaid statement has come after the closure of the evidence of the defendant therefore, there was no other option but to pray for amendment of written statement as those statements amount to admission of the plaintiff.

Mr. Singh, learned counsel appearing on behalf of the plaintiff respondent while supporting the impugned order, has submitted that the defendant had been adopting delaying tactics against the disposal of the suit which has been filed for eviction on the ground of personal necessity in the year 2005. Learned counsel has placed the impugned order to show the earlier conduct of the defendant petitioner and has stated that the petitioner has approached this court as well as Apex Court unsuccessfully

several times and this amendment has also been filed only for the purpose to delay the disposal of the suit. It has also been submitted that the learned court below has rightly taken notice that the material statement of fact sought by way of amendment in the written statements are already there in the written statement

After careful consideration of the material on record and the submissions made on behalf of the parties as well as from the impugned order it is manifest that the suit has been filed for eviction of the defendant on the ground of personal necessity. From the impugned order it transpires that the evidence of both the parties was closed as far back as on 28.4.2008 and it further also transpires that the suit is pending due to the petitions filed by the defendant petitioner before the civil court as well as before the Apex Court. The fact has also not been denied that the material averments which have been sought to be included in the written statements are already mentioned in paragraph 13, 24 and 30 of the written statement. However, Mr. Parwat has tried to impress upon the court that as those facts have come to be admitted by the plaintiff in a subsequent suit, therefore, the amendment in order to incorporate the said admission of the plaintiff has become necessary. This court is not inclined to accept the submission in view of the fact that the statements made by the plaintiff in other suit are already there in the written statement filed by the defendant petitioner and therefore, for bringing those facts to the notice of the court, the amendment in the written statement was not the right and proper course. The learned court below has thus not committed any error in rejecting the prayer of the petitioner in the facts and circumstances of the case.

This court, therefore, is not inclined to invoke its

jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order and the present writ application is dismissed with direction to the court below to expeditiously dispose of the eviction suit.

(V. Nath, J)

M.Rahman/-

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