

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.205 of 2013

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Raja Sah @ Raja Prasad Shah S/O Sri Shiv Nath Sah Resident Of Thana Road,
Buxor, P.S- Buxor, District- Buxor.

.... Appellant/s

Versus

Hare Ram Choudhary @ Gama Choudhary S/O Late Jwala Choudhary Resident Of
Piparpati Road, Buxor, P.S- Buxor (Town), District- Buxor.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. N.K. Agrawal, Sr. Adv.
Mr. Diwakar Upadhyaya, Adv.
For the Respondent/s : Mr. T.N. Maitin, Sr. Adv.
Mr. Rajeev Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 23-03-2015

Heard the learned counsel for the appellant. Mr. T.N.

Maitin the learned senior counsel for the respondent is also present.

The defendant in a suit for eviction is tenant in this appeal
against the judgment and decree of affirmance.

The plaintiff filed the suit for eviction on the ground of
default in payment of rent as well as bonafide personal necessity. The
defendant resisted the claim of the plaintiff and denied the assertions
made in the plaint.

Both the courts below have come to the concurrent finding
that the defendant has committed default in payment of rent for more
than two years and the plaintiff has also got bonafide personal

necessity of the suit premises. The suit has been decreed and appeal thereafter has been dismissed.

The learned counsel for the appellant has emphatically submitted that there is no relationship of landlord and tenant between the plaintiff and the defendant. It has been canvassed that the suit premises has been given on rent to the father of the defendant and not to the defendant. It has, therefore, been contended that in absence of establishment of the relationship of landlord and tenant, the suit for eviction could not have proceeded and decreed.

After perusal of the judgments of both the courts below and the consideration of the submissions on behalf of the appellant, it is limpid that the suit has been filed for eviction of the defendant on the ground of default in payment of rent and personal necessity. Both the courts below have found the existence of relationship of landlord and tenant in between the plaintiff and the defendant. The courts below have also taken into consideration the statement made by the defendant in the written statement in paragraph-6 where he has specifically stated that he used to pay the rent of the suit premises to the plaintiff and he had lastly also tendered the rent to the plaintiff but the same was refused. It is evident from this statement that the relationship of landlord and tenant has been accepted, and the contention relating to absence of relationship of landlord and tenant

thereupon falls apart. The centrirorial and the sole argument on behalf of the appellant in this appeal, therefore, cannot be accepted in view of the aforesaid statement in the written statement as well as the finding of fact by both the courts below in this regard. No other submission has been made on behalf of the appellant.

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

(V. Nath, J)

Devendra/-

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