

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12610 of 2012

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1. Sri Pankaj Kumar Son Of Sri Sadanand Mehta Resident Of Mohalla Gandhi
Nagar Madhubani P.S.- Khazanchi Hat Town & District- Purnea

.... Petitioner/s

Versus

1. Smt. Sunima Poddar Wife Of Sri Badri Poddar Resident Of Bhullu Para,
Postmartem Road, Line Bazar, P.S. Khananchi Hat, Town & Distt.- Purnea
2. Sri Badri Poddar Son Of Late Baldeo Prasad Poddar Resident Of Bhullu Para,
Postmartem Road, Line Bazar, P.S. Khananchi Hat, Town & Distt.- Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganpati Trivedi- Sr. Advocate &
Mr. Madan Mohan-Advocate

For the Respondent/s : Mr. Ashok Kumar Sinha-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

06 27-11-2015

Heard learned counsel for the petitioner as well as

learned counsel representing the respondents.

The dispute amongst the parties is over tenancy and under garb of aforesaid controversy, refused to direct the respondent to deposit the rent by the order impugned. According to the petitioner/ plaintiff, respondent/ defendants is his tenant, who continued since the time of his vendor, Bimlendu Banerjee from whom he had purchased the land by virtue of sale deed dated 09.07.2002.

The respondent/ defendants objected on so many score including over the theme of having tenancy relating to vacant land and subsequent thereof, constructed house on his own and therefore, questioned the jurisdiction of the court under B. B. (L. R. & E) C. Act and in likewise manner, resisted the claim at the present

moment also on that very score.

From the order of the Court below, it is evident that for fixation of rent, the respondent/ defendants had approached the Controller under Case No.01 of 2005, however, the learned counsel for the respondent/ defendants has pleaded that under wrong advice the aforesaid recourse was adopted which, realizing to be adverse to his interest, was withdrawn.

Be that as it may, by having presence of Case No.01 of 2005 at his end speaks, for the present the inter se relationship as landlord and tenant for the purpose of adjudicating upon the issue in terms of Section 15 of the Act. Therefore, the respondent/ defendants could very well be directed to deposit the amount in Court whatever been shown by him in the petition filed before the Controller for which Case No.01 of 2005 has been registered, subject to condition that till final adjudication of inter se relationship, petitioner/ plaintiff will not be authorized to withdraw the amount and in terms thereof, the order impugned is set aside. Petition is allowed.

Vikash/-

(Aditya Kumar Trivedi, J)

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