

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17285 of 2012

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1. Bhagwan Das, S/O Devi Lal Sah, R/O Madhubani, P.S. Khajanchi Hat,
District- Purnea

.... Petitioner/s

Versus

1. Ranjeet Kumar Banerjee, S/O Late Nirmal Chandra Banerjee, R/O
Bhatta, P.S. Khajanchi Hat, Distt. Purnea
2. Bishwajit Banerjee, S/O Late Nirmal Chandra Banerjee, resident of
Bhatta, P.S. Khajanchi Hat, District Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhukar Pandey with
Mr. Manojeshwar Pd. Sinha with
Mr. Ratan Kumar Sinha--Advocates
For the Respondent/s : Mr. Sushanta Kumar Das with
Mr. Suresh Chandra Pd. Sinha-Advocates

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

06 15-12-2015 Heard learned counsel for the petitioner as well as
learned counsel for the respondent no.1 and respondent no.2.

Gone through the order impugned.

The learned lower court, before passing of the order
impugned by which, has directed the petitioner/ tenant to deposit
the rent which was aware of the order passed in M. A. No.268 of
1998 arising out of Title (Partition) Suit No.89 of 1987, being
fought amongst respondent nos.1 and 2, wherein respondent no.2
has been appointed as receiver to collect the rent and deposit the
same in the Court and in the aforesaid background, respondent
no.2 filed a petition before the learned Appellate Court

(Annexure-4) to the extent that tenant had already deposited the rent up to October, 2011, did not justify the order impugned.

Consequent thereupon, the order impugned is set aside. Petition is allowed.

However, to avoid future complications, the petitioner is directed to obtain receipt from respondent no.2 while making payment as rent and photo copy of the same would be filed before the learned Appellate Court regularly on monthly basis, so that respondent no.1, appellant before the learned lower Court would have no grievance.

From the order impugned, it is also evident that parties are not ready to argue the appeal, in that circumstance, the hands of Appellate Court is not fettered. In case, there happens to be non-cooperation from any of the parties, then in that event, will pass appropriate order in accordance with law. Anyhow, the learned lower Court is directed to begin hearing of instant appeal and will conclude the same within two months, positively.

(Aditya Kumar Trivedi, J)

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