

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6685 of 2014

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Md. Nasir Hussain Son of Late Md. Sabir Hussain Resident of Drybesrion Lane
Police Station- Danapur, District- Patna

.... Petitioner/s

Versus

Basudeo Prasad Son of Late Prahlad Prasad Resident of Machhua Toli, P.O. And
P.S. Danapur, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghib Ahsan, Sr. Adv.

For the Respondent/s : Mr. Shailesh Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 27-01-2015

Heard Mr. Raghib Ahsan, the learned senior counsel for
the petitioner. Mr. Jha, the learned counsel for the plaintiff-respondent
is also present and has been heard.

The petitioner, who is the tenant-defendant in the suit for
eviction, has assailed the order dated 16.01.2013 by which the learned
court below has directed that the suit would be tried under the special
procedure as prescribed under Section 14 of the Bihar Buildings
(Lease, Rent and Eviction) Control Act, 1982.

The learned senior counsel for the petitioner has
submitted by referring to the plaint that the suit has been filed

claiming eviction on the ground of personal necessity but simultaneously the another relief for payment of arrears of rent or compensation for occupying the suit premises has also been sought.

Per contra, Mr. Jha, the learned counsel for the plaintiff-respondent has submitted that the plaintiff has specifically omitted the ground of default to be a ground for eviction in the present suit and has reserved the right to sue the defendant if so required for eviction on the ground of default. It has, therefore, been canvassed that any other ground mentioned under Section 11 of the B.B.C. Act has not been added with the ground of personal necessity for seeking eviction decree against the defendant. It has been propounded that the suit is for eviction on the exclusive ground of personal necessity and the inclusion of the relief for payment of arrears of rent or compensation cannot change the nature of the suit as the claim for the amount of arrears of rent or compensation is not a ground of eviction.

After considering the submissions, it is limpid that the plaintiff has filed the suit for eviction only on the ground of personal necessity. The relief for the amount of arrears of rent or compensation against the defendant for occupying the suit premises cannot be taken to be the other grounds for eviction taking away the suit from the purview of the special procedure as prescribed under Section 14 of the B.B.C. Act, 1982.

This Court, therefore, is not inclined to interfere with the
impugned order. The writ application is, accordingly, dismissed.

Devendra/-

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(V. Nath, J)

