

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20224 of 2014

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Sanjay Kumar Pandey S/o Late Shashi Bhushan Pandey resident of
Rajendra Nagar, Road No. 13, Northern side of Plot No. 19F, P.S.-
Kadamkuan, District AND Town- Patna

-Defendant-Appellant-Petitioner.

Versus

Smt. Gaytri Devi W/o Sri Iswar Dayal Sinha, resident of 269, New A.G.
Co.Op. Colony, Kadaru, P.S.- Kadru, District AND Town- Ranchi
(Jharkhand) Indian Citizen

.... **Respondent.**

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Appearance :

For the Petitioner/s : Mr. Madan Prasad Singh No-2, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

4 29-06-2015

Heard the learned counsel for the parties.

Calling in question the legal acceptability of the
impugned order rejecting the prayer for amendment in the written
statement as prayed for by the defendant-appellant before the
appellate court below, the present application under Article 227 of
the Constitution of India has been filed.

There is no dispute that the suit for eviction was
filed against the petitioner on the ground of personal necessity and
default. The suit has been decreed upholding the ground of default
as pleaded by the plaintiff. The defendant, thereafter, has filed the
title appeal against the judgment and decree of eviction. When the
appeal was being heard, the defendant as appellant therein, filed a
petition praying for amendment in paragraph-6 of the written
statement. The learned court below has held that the amendment
as prayed is frivolous as the statement which the defendant-

appellant wants to incorporate by way of amendment is already there in paragraph-6 of the written statement.

Mr. Madan Prasad Singh, the learned counsel for the petitioner, after some argument, has prayed to withdraw the present writ application.

The learned counsel for the plaintiff-respondent, at this juncture, has pointed out that the disposal of the appeal has been delayed by the defendant-petitioner on one pretext or other and the plaintiff is suffering from serious injury, as the suit for eviction filed in the year 2005 is still pending at the appellate stage.

After considering the submissions and the facts and circumstances of the case, the prayer made on behalf of the petitioner to withdraw this writ application is allowed. The writ application is dismissed as withdrawn with further direction to the court below to take up the hearing of the appeal and dispose it of within three months from the date of receipt/production of a copy of this order without granting unnecessary adjournments to the parties. The learned counsel for the parties who are present before this Court are also directed to instruct the appellant and respondent not to seek unnecessary adjournments and cooperate in the disposal of the appeal

within the aforesaid time frame.

The writ application is dismissed as withdrawn

with aforesaid direction.

(V. Nath, J)

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