

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.793 of 2014

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Rajeev Gupta @ Rajeev Kumar Gupta & Anr

.... Petitioner/s

Versus

Manoj Kumar Yadav

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 15-12-2015

Heard learned counsel Mr. Dronacharya for the petitioners and learned counsel Mr. Ram Chandra Singh for the respondent.

2. The tenants-petitioners have filed this application under Article 227 of the Constitution of India against the order dated 18.11.2013 passed by Subordinate Judge-III, Patna in Eviction Suit No.109 of 2011 whereby the court below directed the petitioners to deposit Rs.2,000/- per month as rent of the shop premises within first week of every month failing which the defence shall be struck off.

3. The learned counsel for the petitioners submitted that there is dispute of rate of rent per month. According to the petitioners, the rate of rent is Rs.200/- per month whereas according to the plaintiff's case the rate of rent is Rs.2,000/- per month but the court below has wrongly directed the petitioners to

pay Rs.2,000/- without considering the fact that the petitioners were paying rent at lump sum.

4. On the other hand, the learned counsel Mr. Singh for the landlord-respondent submitted that the case of the plaintiff is that there was mutual agreement between the parties and rent was enhanced to Rs.2,000/- and the petitioners were paying the said rent till December, 2008 and then stopped payment of rent from January, 2009. Therefore, the court below after considering the materials has rightly held that the rate of rent is Rs.2,000/- per month.

5. Perused the order passed by the court below. It appears that the court below has considered the rent receipts produced by the tenants. The court below noticed that Rs.1500/- was paid on 22.09.1999 and, therefore, he recorded the finding that the rent is Rs.2,000/- per month.

6. So far the submission of the learned counsel that the finding of the court below is wrong as he has not considered the fact that the petitioners were paying lump sum amount is concerned, it cannot be examined in supervisory jurisdiction under Article 227 of the Constitution of India as while hearing the application under Article 227 this Court is neither exercising as appellate jurisdiction or revisional jurisdiction. So far the

submission of learned counsel that the court below could not have directed the petitioners to pay within first week of every month because the statute provides 15 days from the date of order is concerned, it may be mentioned here that Section 15 of the B.B.C. Act provides 15 days for depositing the arrears of rent. In the present case, the order has been passed for depositing the current rent.

7. In view of the above facts and circumstances it cannot be said that by the impugned order passed by the court below is not within the jurisdiction of the Court or that the court below exercised the jurisdiction in a manner not permitted by law. Therefore, the impugned order cannot be interfered with.

8. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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