

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.21 of 2013

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Sri Krishna Prasad S/O Late Manik Sao R/O Mohlla - Sadikpur Sindhua
Tola, P.S. Alamganj, P.O. Gulzarbagh, District – Patna.

--Defendant-Petitioner.

Versus

Sharvan Prasad S/O Late Kishori Sao R/O Village - Bakhtiyarpur, P.S.
Bakhtiyarpur, District – Patna

-Plaintiff-Opposite party

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

13 22-01-2015

Heard Mr Bajrangi Lal, the learned counsel for

the petitioner and the learned counsel for the opposite party.

This revision application has been filed under
Section 14(8) of the Bihar Building (Lease, Rent & Eviction)
Control Act, 1982 by the tenant-defendant against the judgment
and order of the eviction.

Admittedly the eviction suit has been filed
seeking eviction from the suit premises on the ground of expiry of
lease and personal necessity. It transpires from the revision
application paragraph-5 that the defendant had appeared in the suit
but did not file his written statement whereafter the suit proceeded
under Order VIII Rule 10 C.P.C. Thereafter , it has been further
stated in the said paragraph that the defendant-petitioner filed his
written statement on 21.04.2010 but the same was rejected as not
pressed by order dated 04.06.2010. Later on the petition filed by



the defendant-petitioner for recall of the order dated 04.06.2010 has also rejected. At this juncture, the learned counsel for the plaintiff-opposite party has pointed out by relying on the averments made in the counter affidavit that since the suit was being tried under the special procedure as prescribed under Section 14 of the said Act, the defendant was required to obtain the leave of the Court as provided in sub clause 4 of Section 14 and thereafter only could have filed the written statement but the defendant had not obtained the leave of the Court. It has also been submitted by the learned counsel for the plaintiff-opposite party that the defendant-petitioner has also cross-examined the P.W.4 which fact is appearing from the order dated 16.06.2010 passed in the suit.

Mr Bajrangi Lal, the learned counsel for the petitioner, however, has pointed out that the petitioner has filed a writ application before this Court against the order by which the court below had refused to accept the written statement of the defendant and the said writ application is pending. The prayer, therefore, has been made to remit the matter back for consideration afresh by the learned court below.

After consideration of the submissions and careful perusal of the impugned judgment and order, it is pellucid



that the plaintiff has filed the suit seeking eviction of the defendant firstly on the ground of expiry of the lease period and secondly on the basis of personal necessity. It is apparent that the defendant did not obtain the leave to contest the suit by filing written statement as required by the provision contained in Section 14 of the B.B.C. Act. The said fact has not been denied on behalf of the petitioner. Even otherwise the written statement was not filed by the petitioner at the initial stage within a reasonable time after his appearance. It is not the case of the defendant-petitioner that he filed a written statement after obtaining the leave as required rather the fact is apparent that no written statement was filed and the suit was allowed to proceed under Order VIII Rule 10 C.P.C. The intention to delay the disposal of the eviction suit is more than apparent.

Under the proviso to Section 14(8) of the B.B.C.Act, this Court is required to examine as to whether the impugned order is in accordance with law. In view of the aforesaid facts and circumstances, this Court does not find any reason to hold that the order under assail in this revision application is not in accordance with law.

In the ultimate eventuate, this Court holds that

this revision application has got no merit, and it is, accordingly,
dismissed.

(V. Nath, J)

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