

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.139 of 2014

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Lakhan Singh Son of Late Kalayan Singh Resident of Bodh - Gaya Bazar,
Hotel Kalyan, P.S. Bodh - Gaya, District - Gaya

.... Petitioner/s

Versus

1. Sita Ram Singh
2. Raja Ram Singh
3. Vinod Singh All sons of Late Ram Gulam Ram Resident of Dhanawan,
P.S. Bodh - Gaya, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Yogesh Chandra Verma,
Sr.Advocate
Mr. Javed Aslam

For the Respondent/s : Mr.Ray Shivaji Nath, Sr. Advocate
Mr.Ray Saurabh Nath.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

5 03-02-2015 Heard Mr. Yogesh Chandra Verma, learned Senior Counsel
for the petitioner and Mr. Ray Shivaji Nath, learned Senior Counsel
appearing for the Opposite parties.

This civil revision has been filed under Section 14(8) of the
Bihar Building (Lease, Rent and Eviction) Control Act by the tenant-
defendant assailing the judgment and order dated 16.5.2012 passed
by Munsif II, Gaya in Eviction Suit No. 2 of 2001.

The fact of the case is that the plaintiffs – opposite parties filed
Eviction Suit No. 2 of 2001 for eviction of the defendants on the
ground of personal necessity. The tenant defendant appeared but
denied the claim of the plaintiffs for eviction on the ground of bona
fide personal necessity. The learned Court below has by judgment
and order dated 16.5.2012 allowed the prayer for eviction. This civil

revision application has been filed on 11.9.2014.

An Interlocutory Application (I.A. No. 6886 of 2014) has also been filed for condonation of delay in filing the revision application.

From the office report it transpires that the limitation expired on 16.7.2012. It has been stated in the condonation petition that the petitioner earlier had filed revision application and he was given token number 75446/2012, but as some information was to be given for removal of defects which could not be provided in time, the refiling could not be done earlier. It has been further averred that when those details ultimately came, the enquiry was made and it was found that the records have been destroyed. This is the only explanation given by the petitioner in the limitation petition.

A counter affidavit has been filed on behalf of the opposite parties contending that the assertions made by the petitioner in the limitation petition disclose that the petitioner lacks bona fide and has adopted delaying tactics in face of the eviction decree. It has further been stated that the defendant- petitioner has not even paid the admitted rent even after the order of eviction and the emphasis has also been laid that the eviction has been sought on the ground of personal necessity.

Learned Senior Counsel for the petitioner at the outset has submitted that though the matter has come up for consideration on the limitation petition, it may be heard on merits as the petitioner has made out sufficient cause for condonation of delay. It has been canvassed that the petitioner had earlier filed a civil revision application and had been bonafidely pursuing the matter and

therefore the assertion on behalf of the opposite parties in the counter affidavit that the petitioner lacks bona fide is untrue.

Mr. Ray Shivaji Nath, learned Senior Counsel appearing for opposite parties has, however, submitted that there is no cogent explanation at all for the time taken between the filing of the first revision application and the present revision application. It has been propounded that the lack of bona fide is explicit from the fact that the petitioner in view of the order of eviction, caused the delay of two years.

After considering the submissions on behalf of the parties as well as the facts of the case, it is limpid that the suit for eviction of the defendant-petitioner was filed on the ground of bonafide personal necessity of the plaintiffs. After the contest the suit was decreed on 16.5.2012. It is the case of the petitioner that he had filed revision application on 13.9.2012 and in support thereof the token number (mentioned in the petition) was granted to the petitioner. However, thereafter there is no explanation relating to the circumstances for filing this revision application on 14.9.2014 except the averment that some information was to be provided by the petitioner which could not be supplied and when this information was gathered, the present revision application was filed before this Court. There is no disclosure as to what information was required and the reason and circumstances for the delay in supply of the said information. The inference is inevitable that the period from 3.9.2012 when first revision application was filed till 14.9.2014 when the second revision application has been filed has not, at all, been explained. The facts

also reveal that the petitioner was aware of the legal recourse of filing the revision application against the order of eviction but apparently he has chosen to sleep over the matter for long two years. The submission on behalf of the opposite parties that the proceedings of the execution case seeking delivery of possession has been adjourned on the prayer of the petitioner who supplied a wrong number of the revision application is also corroborated by Annexure 'A' to the counter affidavit filed by the opposite parties. The entire gamut of facts demonstrates stealth and deliberate action on the part of the petitioner in elongating the eviction proceedings. In view of the dictum laid down by the Apex Court in this regard in the case of Esha Bhattacharjee –v- Managing Committee of Raghunathpur Nafar Acadey, 2013(12) SCC 649, the submission of adopting a liberal approach has no substance.

This Court , therefore, concludes that the petitioner has failed to establish sufficient cause for condonation of delay in filing this revision application.

The condonation petition is, accordingly, dismissed. Consequently, this revision application is also dismissed.

(V. Nath, J)

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