

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.159 of 2016

=====

Suresh Giri, S/o Late Ram Janam Giri, R/o Village- Dumaria, P.S.-
Mohamadpur, District- Gopalganj.

.... Defendant/Appellant/Appellant
Versus

Kailashpati Giri, S/o Surendranath Giri, R/o Village- Jhanjhwa, P.O.-
Jhanjhwa Bazar, P.S.- Sidhwalia, Dist.- Gopalganj.

.... Plaintiff/Respondent/Respondent

=====

Appearance :

For the Appellant/s : Mr. Sanjay Kumar, Advocate
Mr. Dhananjay Kumar Upadhyay, Advocate
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

7 06-10-2016

Heard learned counsel appearing for the appellant.

The tenant-defendant, in the suit for eviction, is
appellant in this appeal against the judgment and decree of
eviction of the suit premises.

The plaintiff-respondent filed the suit for eviction of
defendant-appellant on the ground of default in payment of rent
and personal necessity. The defendant contested the relief prayed
by the plaintiff on the ground that he was not the tenant of the
plaintiff, as alleged, and there was no relationship of landlord and
tenant in between them.

Both the courts below after considering the pleadings
and scrutiny of evidence have come to the concurrent finding of
the fact that the defendant is the tenant of the plaintiff and there
exists relationship of landlord and tenant in between them. It has

further been also found by both the courts below that the defendant had defaulted in payment of rent, but issue of personal necessity was decided against the plaintiff. The suit was decreed and thereafter appeal by the defendant has been dismissed by the impugned judgment and decree.

After considering the submissions made by learned counsel for the appellant, who has also referred to the decision of the Apex Court in the case of Tribhuvanshankar Vs. Amrutlal, reported in (2014) 2 SCC 788 and perusal of the impugned judgments of both the courts below, it is evident that both the courts below have reached to the conclusion that the defendant is the tenant of the plaintiff, on the basis of evidence adduced by the parties, which were acceptable and could have been relied upon.

Once after the finding of the relationship of landlord and tenant in between the parties, the issue of default in payment of rent by the defendant was a forgone conclusion in view of the case of the defendant himself that he has never paid the rent for the suit premises.

In view of the dictum laid down by the Apex Court in Tribhuvanshankar (supra), this Court further finds that both the courts below have rightly repelled the prayer on behalf of the defendant for converting the eviction suit into a title suit.

This Court has not been persuaded to find any perversity or unreasonableness in any manner in the findings recorded by courts below.

Ex consequenti, this Court does not find any substantial question of law arising for consideration in this appeal, which is accordingly, dismissed.

(V. Nath, J.)

Uday/-

U			
---	--	--	--