

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.420 of 2016

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Rekha Devi

.... Appellant/s

Versus

Mukesh Kumar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 24-08-2016 Heard the learned counsel, Mr. Umesh Prasad, for the petitioner.

Perused the impugned order dated 25.05.2016 passed by Subordinate Judge VIII, Patna in Eviction Suit No.88 of 2013 whereby the learned Court below rejected the application filed by the petitioner for appointment of pleader commissioner in the eviction suit.

It appears that eviction suit has been filed by the respondent against the petitioner on the ground of fix terms tenancy, personal necessity and default. In this eviction suit, application has been filed for appointment of pleader commissioner. The learned Court below clearly held that for deciding the issue involved in the eviction suit, appointment of pleader commissioner is not at all necessary. Therefore, in my opinion, the order cannot be said to be without jurisdiction or it has been passed in the manner not

permitted by law.

It appears that written statement has been filed on 22.02.2016 and thereafter, the application under Order 26 Rule 9 CPC was filed on 27th April, 2016. The intention of the petitioner appears that the petitioner is trying to delay the disposal of the eviction suit on frivolous grounds and vexatious applications are filed with a view to abuse the process of the Court and therefore, this Civil Misc. application is dismissed with cost of Rs.3000/- to be deposited by the petitioner within one month from today. If it is not deposited within aforesaid period, the Court below shall realize the same through the process of the Court.

If the cost is deposited within aforesaid period, the plaintiff respondent shall be at liberty to withdraw the same.

(Mungeshwar Sahoo, J)

Sanjeev/-

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