

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.653 of 2016**

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Gopal Prasad Jaiswal @ Gopal Jaiswal

.... Appellant/s

Versus

Gopal Kumar Gupta & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Amresh Kr. Verma

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 21-09-2016 Heard the learned counsel, Mr. Amresh Kumar Verma, for
the petitioner.

Perused the impugned order dated 17.03.2016 passed by the
Sub Judge III, Begusarai in Title Eviction Suit No.320 of 2013
(wrongly typed as Title Eviction Suit No.321 of 2013 in paragraph
1 and at other places of this Civil Misc. application) whereby the
learned Court below has directed the petitioner to deposit monthly
rent at the rate of Rs.3000/- per month.

The plaintiff respondent filed the suit for eviction on the
ground of personal necessity. Application under Section 15 of the
Bihar Building (Lease, Rent and Eviction) Control Act, 1982 was
filed alleging that the defendant petitioner was paying @Rs.3000/-
per month but he stopped the payment. Therefore, under Section
15, direction may be given.

The petitioner filed a rejoinder to the said application

denying the relationship of landlord and tenant only alleging that he is the tenant under one Ramdeo Ram. The said Ramdeo Ram has already filed a suit for declaration of title and cancellation of the sale deed in favour of the plaintiff. The Court below by the impugned order has allowed Section 15 application and directed the defendant to deposit the monthly rent.

The learned counsel for the petitioner submitted that in fact the monthly rent last paid was Rs.700/- only that too to Ramdeo Ram and not to this petitioner. But the Court below without considering the rent receipt filed by the petitioner passed the order.

Perused the rejoinder of the application which is Annexure '2' to the application filed by the landlord under Section 15 of Bihar Building (Lease, Rent and Eviction) Control Act, 1982. From perusal of this rejoinder, it appears that there is no whisper about the denial of payment of rent at the rate of Rs.3000/-. Nowhere it is stated that this petitioner never paid rent @ Rs.3000/-. In other words, what is stated in the application under Section 15 is not denied in the rejoinder application. He never stated that last paid rent was only Rs.700/- only.

From perusal of the impugned order also, it appears that the Court below has held that the denial is only regarding relationship of landlord and tenant and, therefore, in exercise of jurisdiction

under second part of Section 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982, the Court below directed the petitioner to deposit Rs.3000/- per month. In my opinion, therefore, the order cannot be said to be without jurisdiction or it is passed in a manner not permitted by law.

Thus, I find no reason to interfere with the impugned order and accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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