

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.796 of 2016**

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Anchala Kumari

.... Appellant/s

Versus

Sri Ajay Kumar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar

For the Respondent/s : Mr.

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

3 23-11-2016

Heard learned Senior Counsel Mr. J.S. Arora for the
petitioner.

2. In spite of service of notice respondent has not
appeared.

3. Perused the impugned order dated 15.06.2016
passed by learned Subordinate Judge-IX, Patna in Eviction Suit
No.31 of 2013.

4. From perusal of the impugned order, it appears that
the learned court below rejected the application filed by the
landlord-petitioner under Section 15 of the Bihar Buildings
(Lease, Rent & Eviction) Control Act, 1982 only on the ground
that the defendant has denied the relationship of landlord and
tenant between the parties.

5. It is apparent that the defendant is claiming to have
entered into oral agreement to sell with the original landlord.

However, admittedly no registered sale deed was ever executed by the landlord in favour of tenant pursuant to the so-called oral agreement nor any suit for specific performance of contract has been filed.

6. On the other hand, the plaintiff-landlord had produced two rent receipts, which have been marked as Ext.6 and Ext.6/A in the eviction suit. These two rent receipts have also been noticed by the court below in the impugned order but no reason has been assigned as to why these two rent receipts were not relied upon. These two rent receipts show that in fact the tenant has already paid Rs.10,000/- rent per month to the present landlord Anchala Kumari. The registered sale deed was also produced by the landlord to show that she has already purchased the suit property from the original landlord, namely, Shamim Fatma. Therefore, only because the defendant is denying relationship of landlord and tenant, the application could not have been dismissed. In paragraph 17 of written statement he admitted that he had not paid rent after 2008 to the ex-landlord. The plaintiff has purchased the property in 2011 except this statement in the written statement that the original landlord/ex-landlord had agreed to sell the suit property to the tenant, there is nothing on record to show that the sale deed was ever executed or that the tenant became the

owner of the property. Now, therefore, the defendant is residing there in the capacity of tenant. According to Section 15 whenever the tenant will contest the eviction suit the tenant is liable to deposit monthly rent in the court.

7. The Full Bench of this Patna High Court in the case of **Priyavarti Mehta Vs. Amrendu Banerji, 1996 (1) P.L.J.R. 732** has held that direction to the tenant to deposit rent can be made irrespective of the ground on which the eviction suit has been filed by the landlord. In the present case, the present eviction suit has been filed by the plaintiff, who has purchased the suit premises from the owner of the property. The question is, therefore, even if the defendant did not attorn then also he is liable to pay/deposit monthly rent according to Section 15 of the B.B.C. Act. Reference may be made to the decision of this Court in the case of **Dinesh Kumar Purbey Vs. Mahesh Kumar Poddar, 1991 (1) P.L.J.R. 650**.

8. From perusal of the impugned order, it appears that the court below has not at all considered these aspects of the matter and has rejected the application only on the ground that the defendant has denied the relationship of landlord and tenant.

9. Thus, this civil miscellaneous application is allowed. The impugned order is set aside. The application under Section 15

of the B.B.C. Act filed by plaintiff is allowed. The defendant-tenant is directed to deposit the arrears of rent at the rate of Rs.10,000/- per month from the month of April, 2011 till the month of October, 2016 within one month and shall go on depositing the rent at the rate of Rs.10,000/- within 15 of next following month for which the rent becomes due. In other words, the rent for the month of November, 2016 shall be deposited by 15th of December, 2016 and the rent for the month of December, 2016 shall be deposited by 15th of January, 2017 and so on and so forth till the disposal of the suit.

(Mungeshwar Sahoo, J)

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