

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.527 of 2016**

Matukhdhari Prasad Gupta & Anr

.... .... Appellant/s

Versus

Asha Devi

.... .... Respondent/s

**Appearance :**

For the Appellant/s : Mr. Mukund Mohan Jha

For the Respondent/s : Mr.

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

2 05-09-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 16.03.2016 passed by the learned Munsif (East) Muzaffarpur in Eviction Suit No.10 of 2010 whereby the learned Court below rejected the amendment application filed by the defendant petitioner.

The learned counsel for the petitioner submitted that the eviction suit is at the stage of argument. The petitioner subsequently came to know about the fact, therefore, it necessitated to file the amendment application. But the learned Court below rejected the same by the impugned order.

The amendment application is Annexure '1' to the Civil Misc. application. From perusal of the said amendment application, it appears that the defendant petitioner is trying to introduce questions of title by way of amendment that too at the time of argument of the eviction suit. Admittedly, the eviction suit

has been filed by the plaintiff respondent on the ground of personal necessity. The Court below considering the decision of the Supreme Court reported in *AIR 2002 SC 136* held that the question of title which is sought to be raised by way of amendment cannot be decided in a eviction suit that too on the ground of personal necessity.

From perusal of the impugned order, it further appears that in fact the petitioner is trying to delay the disposal of the eviction suit and this type of frivolous application has been filed only with a view to delay the disposal of the eviction suit which is to be tried according to special procedure provided under Section 14 of the Bihar Building (Lease, Rent & Eviction) Control Act. In other words, it can very safely be said that the petitioner is trying to abuse the process of the Court and that is the dilatory tactics.

Thus, this Civil Misc. application is dismissed with cost of Rs.5000/- to be deposited by the petitioner in the Court below within one month. The cost deposited be withdrawn by the plaintiff respondent and if it is not deposited, the same shall be realized through the process of the Court.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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