

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.1450 of 2016**

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Santosh Prasad

.... .... Petitioner/s

Versus

Govind Sharma

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Navjot Yesu

For the Respondent/s : Mr.

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

- 2      21-12-2016      The learned senior counsel, Mr. Surendra Kumar Singh for the petitioner submitted that prima facie, it appears that after obtaining leave under Section 14(4) of the Bihar Building(Lease, Rent & Eviction) Control Act, the tenant-petitioner contested the eviction suit filed by the plaintiff-respondent under Section 11(1) (c) of B.B.C. Act i.e. bonafide personal necessity. Therefore, special procedure as provided under Section 14 of the B.B.C. Act was applied in deciding the eviction suit. However, by mistake, title appeal was filed before the Court below against the eviction order passed by the trial court instead of filing the revision under Section 14(8) of the Bihar Building(Lease, Rent & Eviction) Control Act, 1982. The learned senior counsel further submitted that the lower appellate court while holding that the appeal before him was not maintainable, he should have returned the appeal for filing the revision as provided under Section 14(8) but instead of



doing so, he has dismissed the appeal and a decree has been passed. Since appeal was not maintainable which was filed by mistake, the judgment and decree itself is a nullity. Therefore, the learned senior counsel seeks permission to file revision under Section 14(8) of the Bihar Building(Lease, Rent & Eviction) Control Act and accordingly, he seeks permission to withdraw this civil miscellaneous application.

In view of the submission of the learned senior counsel for the petitioner, this civil miscellaneous application is permitted to be withdrawn and the petitioner is granted liberty to file civil revision application as provided under Section 14(8) of the Bihar Building(Lease, Rent & Eviction) Control Act.

Thus, this civil miscellaneous application is dismissed as withdrawn with aforesaid liberty.

**(Mungeshwar Sahoo, J)**

Saurabh/-

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