

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6783 of 2013

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1. Shri Krishnandan Prasad (Head Clerk) Son Of Late Guru Charan Mahto
B.D. Evening College, Yarpur Mithapur, P.S. Gardanibagh, P.O. G.P.O.
District - Patna, At Present Residing At Tej Pratap Nagar, P.S. - Beur, P.O.
Beur, Anisabad, District - Patna

.... Petitioner/s

Versus

1. Pramod Kumar Son Of Late Chandradeep Rai Of Village - Saristabad,
East Tola, P.S. - Gardanibagh, P.O. - Anisabad, District - Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Singh, Adv.

For the Respondent/s : Mr. Shakti Suman Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
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ORAL ORDER

3. 16-03-2016 Heard learned counsel for the petitioner as well as
learned counsel for the respondent.

Without prejudiced to the case of respective parties
which they are to sail according to their own choice, it is apparent
that respondent/plaintiff's father Chandradeep Rai had executed
sale deed with regard to the land under dispute in favour of Nishu
Sahkari Grih Nirman Samittee Ltd., which also purchased
adjoining land and then thereafter, allotted, partwise to its member
of which, petitioner happens to be one of them who got Samittee
plot no. 33B and is over the same by way of constructing a *pacca*
residential house after borrowing a loan, as plead.

Respondent/plaintiff filed eviction suit identifying the

petitioner/defendant to be his tenant and further, on his prayer in terms of Section 15 of the B.B. (Lease, Rent & Eviction) C. Act, the learned lower Court had directed to deposit the arrear since the date of filing of eviction suit and in likewise manner, to pay the current rent. The petitioner/defendant challenged *inter se* relationship claiming to be the owner in a manner, as stated above. However, respondent/plaintiff is yet to amend the plaint with suitable relief based thereupon, in terms of disclosure having been made in W.S.

Be that as it may, whenever there happens to be challenge of *inter se* relationship with substantial document in support thereof, then in that event, the learned lower Court should have decided the issue instead of directing to deposit the rent as became matter of controversy.

Consequent thereupon, the order impugned is set aside.

Petition is allowed. Stay so granted at an earlier occasion is hereby vacated.

(Aditya Kumar Trivedi, J.)

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