

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No. 868 of 2016**

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Vakil Ahmad

.... Appellant/s

Versus

Kalawati Devi & Ors

.... 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 21-10-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. Perused the impugned order dated 02.06.2016 passed in Eviction Suit No. 06 of 2011 by the learned Munsif 1st Chapra, Saran, whereby the learned court below has rejected the application filed by the petitioner for bringing some documents as evidence in the case.

3. From perusal of the impugned order, it appears that the court below observed that since long, the eviction suit is fixed for argument but on one ground or the other, the defendant is delaying the matter and, accordingly, dismissed the application. It appears that whenever any order is passed, the petitioner is in habit to move the High Court, which will be evident from C.W.J.C. No. 20821 of 2012, which was dismissed by the High Court on 19.02.2013. Again C.W.J.C. No. 14679 of 2014 was filed by the petitioner, which was also dismissed on 15.09.2016. From perusal of the said order, it appears that the petitioner filed



application for cross-examination of the witnesses of the plaintiff, which was rejected considering the conduct of the petitioner. The petitioner then filed application for permission to repair the suit premises, which was rejected by the court below then he filed C.W.J.C. No. 10128 of 2013, which was again dismissed by this Court on 06.09.2016. Thereafter, again, this case has been filed under Article 227 of the Constitution of India for permission to produce some documents.

4. In view of the above facts, it appears that the petitioner is adopting dilatory tactics to delay the disposal of the eviction suit filed by the plaintiffs-respondents on the ground of personal necessity only.

5. In the case of ***Gyan Infra Build. Private Limited Vs. Srimati Mamti Sinha*** reported in ***2016 (3) PLJR 1022*** relying on the decision of the Supreme Court in the Case of ***Rameshwari Devi Vs. Nirmala*** reported in ***2011 (8) SCC 246***, this Court has held that the delaying tactics, which is being adopted by the party for getting benefit should be dealt with strongly from the beginning by the Court so that it will be a lesson to the others and in future the same dilatory tactics for the purpose of getting benefit and harassing the other party by abusing the process of the Court would not be adopted. Unless this message is given to the litigants who are trying to misuse the process of the Court, the disposal of civil cases cannot be shortened and wrong doer will always try to

harass the other helpless litigants. The Court cannot be a silent spectator and act at the wish of the litigant who is misusing the process of the Court. It may be mentioned here that this is one of such cases where the defendant is delaying the disposal of the suit by misusing the process of the Court and thereby harassing the plaintiff-respondent as the suit has been filed by the plaintiff-respondent on the ground of personal necessity only and the special procedure under Section 14 of the B.B.C. Act is being adopted by the Court. The suit is of the year 2011.

6. From perusal of the impugned order, it appears that the court below has passed the reasoned order, and therefore, is not irrational. The order is also not without jurisdiction. Thus, this civil miscellaneous application is dismissed with cost of Rs. 10,000/- to be paid by the petitioner to the plaintiff within two months from today failing which the cost shall be realized by the process of the Court. If the cost is deposited, the plaintiff-respondent shall be at liberty to withdraw the same.

Brajesh/-

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(Mungeshwar Sahoo, J)