

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11162 of 2013

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1. KESHAV KUMAR SINGH, S/O LATE ASHOK KUMAR SINGH,
 RESIDENT OF VILLAGE- TOPKHANA BAZAR NEAR DARU GODOWN
 P.S.- KOTWALI, P.O.- MUNGER DISTRICT- MUNGER

.... PETITIONER/S

VERSUS

1. SUCHITRA SEN GUPTA, W/O SRI KAUSHIK SEN GUPTA, RESIDENT OF
 GHASIYAR MOHALLA SARWAN BAZAR GODOWN, P.S.- KOTWALI, P.O.-
 MUNGER DISTRICT- MUNGER

2. GOPESH KUMAR SINGH, S/O LATE ASHOK KUMAR SINGH, RESIDENT
 OF VILLAGE- TOPKHANA BAZAR NEAR DARU GODOWN P.S.-
 KOTWALI, P.O.- MUNGER DISTRICT- MUNGER

.... RESPONDENT/S

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Appearance :

For the Petitioner/s : Mr. Dhirendra Nath Jha -Advocate

For the Respondent/s : Mr. Shashi Nath Jha-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 23-09-2016

Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

Both the parties are brandishing their sword against each other whereunder they have challenged status of each other. Under garb of aforesaid disputed, controversial scenario, the petitioner, who has been identified as a tenant having been inducted at the end of mother of the respondents asked for eviction on the ground of personal necessity though theme of default of payment of rent was very much disclosed and for that, there happens to be specific disclosure that if needed, will be taken up subsequently. Further, also filed Title Suit No.173 of 2009, as a result of which, both the cases are running conjointly. Seeing her



plea not being considered on priority basis on the ground of personal necessity amendment in the plaint has been sought for, by which theme of default has also been introduced, which the learned lower Court allowed. Hence, this petition. It is needless to say that whenever an Eviction Suit is filed solely on the ground of personal necessity, then in that event, it attracts special procedure whereunder the trial is to be taken up and be concluded at an earliest, more particularly in terms of Section 14 of the B.B.C. Act.

Contention on behalf of the petitioner is that the aforesaid amendment would not have been allowed in the background of the fact that for such eventuality, the respondents/ plaintiff had herself incorporated that a separate suit will be filed. Therefore, instead of allowing her to implead those facts and further, asked for an eviction on the ground of default also the lower Court should have directed to file afresh. Furthermore, it has been submitted that for the present, amendment is barred under Order-2, Rule-2 of C.P.C.

The learned counsel for the respondents opposed the same in the background of the fact that on account of dubious activities of the petitioner/ defendant, in spite of suit having instituted under the banner of personal necessity, it is pending

since 2009 without any progress.

Both the parties have agreed during course of argument that suit be allowed to proceed in terms of personal necessity and on account thereof, the order impugned is set aside. Petition is allowed keeping the respondents' plea alive to raise the same under different suit if so reviewed. The learned lower Court is directed to expedite the trial and proceed on day to day basis without granting any adjournment at the request of either of the parties and further, will dispose of the Eviction Suit within one and half month from the date of receipt/ production of a copy of this order. In case, there happens to be non-cooperation at the end of petitioner/ defendant, even then, the learned lower Court will decide the issue.

(Aditya Kumar Trivedi, J)

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