

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11976 of 2013

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Baidnath Mahto S/O Late Ram Lagan Mahto Resident Of Village - Bambaiya Harlal, P.O. - Bambaiya Harlal, P.S. - Dalsingsarai, District – Samastipur.

.... Petitioner/s

Versus

Hari Narayan Panjiar S/O Late Ram Khelawan Panjiar Resident Of Village - Loknathpur Ganj, Anadar Town, Dalsingsarai, P.S. - Dalsingsarai, District – Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmesh Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 10-11-2016

Heard Mr. Dharmesh Kumar, learned counsel for the petitioner.

The defendant in the suit is the petitioner in this application questioning the legal sustainability of the impugned order by which the learned court below has rejected the prayer of the petitioner for stay of the further proceeding of the suit under Section 10 C.P.C.

It is evident from the records as well as submissions that the T.S. No. 18 of 2008 was filed by the plaintiff-respondent against the defendant-petitioner questioning the legal validity of the sale deed executed in favour of the defendant-petitioner by the son of the plaintiff-respondent. During the pendency of the said suit, the Title



Eviction Suit No. 03 of 2011 has been filed by the plaintiff-respondent against the defendant-petitioner seeking his eviction under the provisions of the Bihar Buildings (Lease, Rent and Eviction) Control Act. The defendant-petitioner filed the petition praying for stay of the further proceeding of the title eviction suit under Section 10 C.P.C.

Mr. Kumar, learned counsel for the petitioner has submitted that as the petitioner is claiming his title over the suit property on the basis of the sale deed executed by the son of the plaintiff in his favour the issue of legal validity of the said sale deed and for that matter the issue of title would be common in both the suits and therefore the proceeding of the eviction suit which has been filed during the pendency of the title suit must have been stayed. Learned counsel has further submitted that the learned court below has committed error in rejecting the prayer of the petitioner in this regard.

After considering the submissions and the perusal of the impugned order, this Court comes to the conclusion that the issue of title over the suit property as claimed by the plaintiff and the defendant respectively cannot be issue in the eviction suit where the only relevant issue would be with regard to the relationship of the plaintiff of that suit with the defendant as tenant. In view of the law laid down by the Apex Court in the case of Tribhuvanshankar Vs. Amrutlal, 2014



(2) S.C. 788, this Court does not find substance in the prayer made by the defendant in the learned court below. The learned court below has not committed any illegality in rejecting the petition filed by the petitioner.

The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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