

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4248 of 2016

=====

Sanjay Prasad

.... Petitioner/s

Versus

Rajoo Prasad Gupta

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 19-07-2016

Heard learned counsel Mr. Tribhuwan Narayan for the petitioner.

Perused the impugned order dated 25.06.2015 passed by learned Munsif, Daudnagar in Eviction Case No.15 of 2000 whereby the court below has rejected the application filed by the petitioner under Section 10 of the Code of Civil Procedure.

It appears that the petitioner has filed Title Suit No.76 of 2000 praying for declaration that the landlord has no right to evict the tenant-petitioner from the suit premises and for permanent injunction. Subsequently the landlord has filed Eviction Suit No.15 of 2000. The tenant, who is defendant in eviction suit and plaintiff of Title Suit No.76 of 2000, filed application under Section 10 of the Code of Civil Procedure.

It may be mentioned here that the suit filed by the petitioner-tenant will be governed by the general law. So far the

suit filed by the landlord is under the special statute i.e. Bihar Building (Lease, Rent and Eviction) Control. The relief claimed in the suit filed by the petitioner is entirely different which is not involved in the subsequent suit. In the subsequent suit i.e. eviction suit only the question as to whether there is relationship of landlord and tenant is to be determined, which appears to be admitted by the petitioner. Now, therefore, the question to be determined in the suit is whether any of the ground for eviction is available to the landlord or not. In my opinion, therefore, in view of the above facts and circumstances Section 10 of the Code of Civil Procedure will never available in such type of cases, therefore, the court below rightly has rejected the application. Thus, I find no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Harish/-

U			
---	--	--	--