

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5142 of 2015

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Kailash Prasad

.... Petitioner/s

Versus

Om Prakash Narayan Sinha @ Babuaji @ Opns Ashok Teyendradhar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 16-03-2016 Heard the learned counsel, Mr. Neeraj Kumar for the petitioner and the learned counsel, Mr. Dronacharya for the respondent.

After some argument, the learned counsel for the petitioner submitted that he may be granted sufficient time to deposit all the arrears of rent as directed by the Court below till the rent for the month of March, 2016 and the defence at all struck off by the Court below, the same may be recalled.

On the other hand, the learned counsel for the respondent submitted that since the order has not been complied with, the defence of the petitioner has already been struck off, therefore, the petitioner cannot be granted further time to deposit the rent.

It appears that there was dispute between the parties in



connection with title and the First Appeal No.100 of 2013 is still pending wherein the vendor of the present petitioner is party and the vendor is also party in the present eviction suit. Because of the said dispute, according to the learned counsel for the petitioner, the rent was not being deposited.

However, since the petitioner is now ready to deposit the rent, I direct that all the arrears as directed by the Court below upto the month of March, 2016 must be deposited by the petitioner by 31st of May, 2016 with cost of Rs.2,000 in the Court below. If this order is complied with within the aforesaid period, the order striking off the defence of the petitioner shall be recalled by the Court below and shall proceed according to law for deciding the eviction suit.

It is made clear that this order is passed with respect to arrears of rent. So far current rent is concerned, the petitioner shall go on depositing the amount of rent in the Court below i.e. the amount of rent for the month of April, within 15th of May and the rent for the month of May, within 15th of June and so on and so forth till the disposal of the suit.

If the order is not complied with, the order by which the defence of the petitioner has been strike off, shall not be recalled and the Court below shall proceed to decide the eviction suit as if

the suit is not defended by the defendant.

Accordingly, this writ application is disposed of with
the aforesaid directions.

(Mungeshwar Sahoo, J)

Saurabh/-

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