

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7435 of 2014

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Sideshwari Kumar Son of Late Din Dayal Ram Resident of Nataji Subash Path Chhotaki Delha, Tekari Road, P.S- Delha, District- Gaya.

.... Petitioner.

Versus

Rohan Mistri Son of Late Ram Jatan Mistri Resident of Delha, P.S- Delha, District- Gaya Estate, Leeth Meshin and Block Smith Bhathi in Holding no. 725, Ward no. IV of Mohalla Nataji Sfdash Path Tekari Road, P.S- Delha, District- Patna

.... Respondent.

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Appearance :

For the Petitioner/s : Mr. Satya Veer

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

4 08-03-2016

Heard learned counsel for the petitioner and

the learned counsel for the other side.

Aggrieved by the order passed by the learned court below allowing the prayer of the petitioner and directing the defendant in the suit to deposit the arrears of rent @ Rs.200/- , the present application has been filed under Article 227 of the Constitution of India.

The petitioner as plaintiff has filed the suit for eviction of the defendant on the ground of default in payment of rent and further relief has been prayed for arrears of rent from the month of January 2006 to November 2006 total 11 months @ Rs. 1200/- per month. The petitioner-defendant appeared in the suit and has contested the reliefs prayed by the



plaintiff. The rate of rent as well as the fact that the plaintiff is not the landlord of the defendant have also been denied. The defendant has however accepted that he has been paying rent @ Rs.200/- per month to the person who according to the defendant is his landlord. The learned court below, after taking into notice that the fact of rate of rent and the possession of the suit premises as tenant having not been denied by the defendant has issued the direction for deposit of Rs. 200/- per month by way of rent with further direction that the petitioner would not be entitled to withdraw the said amount till the disposal of the suit.

The learned counsel for the petitioner has submitted that the finding by the learned court below that the rate of rent was only Rs.200/- is not sustainable ignoring the rent receipts which have been filed on behalf of the plaintiff-petitioner. It has been submitted that the rate of rent of the suit premises is Rs. 1200/- per month but the defendant has wrongly stated the same to be Rs.200/-.

After considering the submissions and perusal of the impugned order, it is manifest that the suit has been filed for eviction of the defendant on ground of default in



payment of rent and the prayer for recovery of the arrears of rent has also been made. The learned court below has taken into notice the dispute with regard to rate of rent as well as the relationship raised by the defendant and has rightly come to the conclusion that the said dispute is to be decided after evidence. In view of the admission of the defendant that the rate of rent is Rs.200/- per month, the learned court below has directed the defendant for deposit of the arrears of rent and current rent at the said rate in the court restraining the plaintiff from withdrawing the same till the disposal of the suit. The submission on behalf of the petitioner that the rate of rent was Rs.1200/- is immaterial in view of the fact that what may be the amount of rate of rent the same is still to be finally decided after considering the evidence of the parties. As the plaintiff-petitioner has not been allowed to withdraw any of the amount of arrears of rent or current rent, this Court does not find that any prejudice has been caused to the plaintiff-petitioner. It is, however, observed that the plaintiff-petitioner shall be at liberty to establish by evidence the rate of rent and relationship, which shall be determined by the learned court below at the time of hearing of the suit in accordance with law.

The writ application is, accordingly, dismissed
with observation.

(V. Nath, J)

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