

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8284 of 2014

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Uday Bhan Singh Son of Radha Kishun Singh Resident of Mohalla- Lah
Bazar, P .O- Chapra, P.S- Chapra Town, District- Saran.

.... Petitioner/s

Versus

1. Sri Ram Janaki (Deities), through Mutwali Opposite Parties no. 2 to 8
2. Prem Kumar Gupta Son of Late Rama Shankar Prasad
3. Renu Gupta Wife of Late Hemant Kumar Gupta
4. Sidharth Kumar Gupta Son of Late Hemant Kumar Gupta.
5. Akash Gupta Son of Late Hemant Kumar Gupta.
6. Shikha Kumari Daughter of Late Hemant Kumar Gupta
7. Santosh Kumar Gupta Son of Late Rama Shankar Prasad
8. Rakesh Kumar Gupta Son of Late Rama Shankar Prasad All residents of
Mohalla- Purani Gurhatti, Sahebganj Bazar, P.O- Chapra, P.S- Chapra
Town, District- Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahesh Narayan Parbat, Sr. Adv & Mr.
Praveen Prabhakar, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

3 15-03-2016 Heard Mr. Mahesh Narayan Parbat, learned senior
counsel appearing on behalf of the petitioner.

2. Assailing the legal sustainability of the impugned
order by which the learned court below has turned down the
prayer on behalf of the defendant-petitioner to accept some
document in evidence, the present application under Article 227
of the Constitution of India has been filed.

3. The plaintiff-respondents filed a suit for eviction
and also for payment of arrears of rent. The defendant-petitioner



appeared and filed his written statement contesting the claim of the plaintiffs. The defendant-petitioner also filed a counter claim praying for the adjustment of the amount of arrears of rent as claimed by the plaintiffs. The counter claim was not entertained by the learned court below for want of pecuniary jurisdiction but the defendant-petitioner was given liberty to file independent suit. It is not in dispute that the defendant-petitioner has thereafter filed money suit. The suit filed by the plaintiffs for eviction and realisation of arrears of rent proceeded and ultimately the matter was posted for final argument. After completion of the arguments by the plaintiffs the petition was filed on behalf of the defendants praying for taking into evidence the original documents relating to the expenses incurred by him towards the suit premises. This petition was filed purportedly in response to the submissions and during the course of argument made on behalf of the plaintiffs that the defendant has not filed any document to substantiate his case of incurring expenditure. The learned court below, however, has rejected the said petition filed by the defendant by the impugned order.

4. Mr. Parbat, learned senior counsel appearing on behalf of the petitioner has submitted that there was no bonafide mistake on the part of the defendant in not producing the original



documents earlier coupled with the fact that the original document was missing. It has been canvassed that the learned court below ought to have allowed the defendant to produce the document in the interest of justice. It has been accepted by the learned senior counsel appearing on behalf of the petitioner that in the counter claim filed by the defendant-petitioner, the documents had been produced.

5. After careful consideration of the matter, it is manifest that the suit for eviction has been filed along with the prayer for decree of arrears of rent. Though the counter claim was admittedly filed by the defendant but the same was not entertained for want of jurisdiction and thereafter the petitioner has admittedly filed money suit which is still pending. It has not been denied that the defendant has participated in the proceeding of the suit and was also examined and cross-examined as witness in the suit. There is also no explanation as to why the defendant did not produce the original documents or for that matter even a copy of the same, availability of which has not been denied. The petition filed by the defendant for taking the documents on record has been filed at the stage in the suit when the argument on behalf of the plaintiffs was continuing. This Court, therefore, does not find any unreasonableness and perversity in the

impugned order observing that the petition has been filed by the defendant with an intention to delay the disposal of the suit. The prayer on behalf of the petitioner for allowing the defendant to adduce the documents in evidence at this stage after imposing cost is also not acceptable in the facts and circumstances when the suit has reached at the verge of disposal. This Court, therefore, does not find sufficient reason to interdict the impugned order.

6. The present application is, accordingly, dismissed.

(V. Nath, J)

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