

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1322 of 2015

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Om Prakash

.... Petitioner/s

Versus

Nilam Kumari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramjeet Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 02-03-2016 **1.** Heard the learned counsel, Mr. Ramjeet Singh, for the
petitioner.

2. By the impugned order dated 15.10.2014, the learned
Munsif IIIrd, Patna rejected the intervention application filed by
the petitioner under Order I Rule 10 (2) CPC in eviction suit
No.14 of 2010.

3. The plaintiff respondent filed the aforesaid eviction suit
against the defendant for eviction under Section 11 of the Bihar
Building (Lease, Rent & Eviction) Control Act, 1982. The
defendant tenant (who is made party in this writ application) filed
written statement denying the relationship of landlord and tenant
between the parties to the eviction suit.

4. Thereafter, this petitioner filed application for being



added as party on the ground that the plaintiff is not the real owner of the property as she has purchased the property during the pendency of the probate case filed by a third person which is pending before the High Court in Misc. Appeal No.620 of 2011 and in fact the petitioner is the real owner and tenant is the tenant of the petitioner. The Court below has rejected this application by the impugned order.

5. It is admitted fact that the suit has been filed by the plaintiff respondent for eviction of the tenant wherein the relationship of landlord and tenant is denied by the defendant. Now, therefore, in view of the controversy between the parties, the issue to be decided in the eviction suit is whether there is relationship of landlord and tenant between the parties or not and for deciding this question, the presence of the petitioner is not at all necessary. So far the question raised by the petitioner is concerned, it relates to title between the plaintiff and this petitioner which is not in issue in the eviction suit. Therefore, the question of title cannot be decided in the eviction suit in view of the decision of the Hon'ble Supreme Court in the case of ***Rajendra Tiwary Vs. Basudeo Prasad AIR 2002 SC 136.***

6. In such view of the matter, I find no reason to interfere

with the impugned order in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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