

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.109 of 2014

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Surendra Sharma, son of Sri RamAutar Sharma, resident of Mohalla Kapraul Road,
Mirchai Patti, Balti Karkhana, Mirchai Patti, PO, PS and District Sitamarhi
..... Defendant Appellant

.... Appellant

Versus

1. Rajendra Kumar, son of Late Jagdeo Prasad
2. Asha Devi, wife of Rajendra Kumar
3. Darshan Kumar, son of Rajendra kumar, Respondents 1 to 3 are resident of
Mohalla Purani Exchange Road, Sitamarhi, PO and District Sitamarhi
..... Plaintiffs Respondents

.... Respondents

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Appearance :

For the Appellant/s : Mr. Md. Waliur Rahman

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-06-2016

Heard Mr. W.Rahman, learned Counsel appearing for the
appellant.

2. The defendant is the appellant in this appeal against the
judgment and decree of affirmance granting decree of eviction to the
plaintiffs.

3. The relationship of landlord and tenant between the plaintiffs
and defendant prior to alleged agreement for sale dated 17.3.2008 is
admitted. In response to the plaintiffs' suit for eviction on the ground of
default in payment of rent from April 2010 onwards, the defendant-tenant
came out with the case that there was an agreement for sale of the suit
land with the plaintiffs on 17.3.2008 and since thereafter his status as
tenant changed and he came and continued in possession thereafter as
owner thereof.

4. The main assail in this appeal on behalf of the defendant-



appellant is to the finding on default as recorded by both the courts below against him. Mr. Rahman, learned Counsel appearing for the appellant has submitted that in support of the agreement for sale two receipts, evidencing payment of entire consideration money have been brought on record as Exts. A and A/1 and, therefore, in that view of the matter the defendant could not have been said to have committed default in payment of rent. It has also been submitted that the said two receipts at least ought to have been considered for collateral purpose for justifying the possession of the defendant over the suit premises. The learned Counsel has also propounded that the plaintiffs were required to establish the default in payment of rent by cogent evidence which they have failed. No other submission has been made on behalf of the appellant.

5. After considering the submission and perusal of the judgments of both the courts below, it is manifest that the defendant has accepted his status as tenant of the plaintiffs over the suit premises till 17.3.2008 on which date according to the defendant there was an agreement for sale of the suit premises, whereby the plaintiffs agreed to transfer the suit premises to the defendant. The defendant has relied upon the two receipts (Exts. A and A/1) to establish the said agreement for sale and payment of entire consideration money in order to defend his possession over the suit premises. The courts below have considered those two receipts (Exts. A and A/1) and other evidence on record and thereafter have come to the finding that the defendant has committed default in payment of rent. Even otherwise also, it is the case of the defendant himself that no rent was paid to the plaintiffs after 17.3.2008. The requirement of a registered document for entitling the

defendant to defend his possession over the suit premises as envisaged under Section 73A of the T.P.Act is clearly absent. This Court, therefore, does not find that both the courts below have committed any illegality in coming to the finding that the defendant is a defaulter in terms of the provisions of Bihar Building (Lease, Rent and Eviction) Control Act and this Court is not persuaded to find that the conclusion by the learned courts below are perverse or unreasonable in any manner as the same are supported by evidence and materials on record.

6. Ex consequenti, this Court does not find any substantial question of law arising in this appeal for consideration, which is, accordingly, dismissed.

(V. Nath, J.)

Snkumar/-

AFR/NAFR	
CAV DATE	
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