

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6253 of 2016**

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Jitendra Prasad

.... .... Petitioner/s

Versus

Nawal Prasad & Anr

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Parmanand Pd. Nr. Sahi

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR**  
**SAHOO**  
**ORAL ORDER**

2 27-07-2016

Heard learned counsel Mr. Pramod Kumar Singh for the  
petitioner.

Perused the order dated 09.02.2016 passed by Munsif,  
Lakhisarai in Title Eviction Suit No.01 of 2012 whereby the  
learned court below rejected the intervention application filed by  
the petitioner. Eviction suit was filed by the plaintiff-respondent  
against defendant-respondent under B.B.C. Act. This petitioner  
filed application for being added party on the ground that he is one  
of the sons of tenant-defendant and that he is a co-sharer and the  
suit property is joint family property. The court below by the  
impugned order has rejected the application on the ground that in  
eviction suit the question of title cannot be gone into.

The Hon'ble Supreme Court in **A.I.R. 2002 Supreme  
Court 136 (Rajendra Tiwary v. Basudeo Prasad and Another)**  
has held that it is evident while dealing with the suit of the

plaintiffs for eviction of the defendant from the suit premises under Section 11 of the B.B.C. Act, Courts including the High Court exercises jurisdiction under a special enactment. The sine qua non for granting the relief in the suit, under the Act, is that between the plaintiffs and defendant the relationship of landlord and tenant should exist. The scope of the enquiry before the Courts was limited to the question as to whether the grounds for eviction of the defendant have been made out under the Act. The question of title of the parties to the suit premises is not relevant.

In view of the above fact that the petitioner is claiming title on the ground that he is co-sharer or that son of tenant, which cannot be decided in eviction suit and for deciding the question as to whether there is relationship of landlord and tenant between the plaintiff and the defendant, the presence of this petitioner is not at all necessary. Thus, this writ application has got no merit and accordingly, it is dismissed.

**(Mungeshwar Sahoo, J)**

Harish/-

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