

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.209 of 2016**

=====

Kusumlata Devi @ Smt. Sharvan Golwara & Anr

.... Petitioner/s

Versus

Om Prakash Agrawal & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Utsav Kumar

For the Respondent/s : Mr.

=====

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

ORAL ORDER

4 14-12-2016 Heard the learned counsel, Mr. Parth Sarthy for the petitioners and the learned senior counsel, Mr. Dhruv Narain for the respondents.

Perused the impugned order dated 09.09.2015 passed by Sub Judge V, Patna City in Title Suit No.5 of 1996 whereby the petitioner-tenant was directed to pay the arrears of rent from November, 1996 till August, 2015. The subsequent order dated 03.03.2016 is also under challenge whereby the learned Court below rejected the prayer for fixing installment and as a result thereof, the defence of the petitioner has been struck off on 07.04.2016.

At the time of hearing of this Civil Miscellaneous application, the petitioners handed over two cheques being Cheque No.182070 dated 06.12.2016 for Rs.57,000/- issued from Punjab National Bank and the other being Cheque No.182068 amounting



to Rs.2 lacs dated 06.12.2016 of Punjab National Bank to the plaintiff-respondent himself who is present in the Court being the Advocate who received the cheques in the open court. So far calculation of arrears of rent to the extent of Rs.2,57,000/- is concerned, there is no dispute. According to the plaintiffs-respondents, the arrear remains from November, 1996 till August, 2015 will be Rs.640 only. The learned counsel for the petitioners submitted that he will deposit the same with the current rent within two weeks from today in the Court below.

The learned counsel of the petitioners submitted that the petitioners shall cross-examine the witnesses of the plaintiffs and thereafter he will get his witnesses examined within six months from today without praying for unnecessary adjournments in the suit. He also undertakes that the petitioners shall not pray for adjournment whenever the witness of the plaintiff is produced for cross-examination and if any prayer is made for adjournment for cross-examining the plaintiff's witnesses, the Court shall not grant adjournments and shall discharge the plaintiff's witnesses.

The learned senior counsel for the respondents agreed to this submission of the learned counsel for the petitioners.

In view of this agreement between the parties, I direct that the plaintiffs shall produce his witness on the date fixed by the



Court for cross-examination and the petitioners shall cross-examine them without praying for adjournment and as soon as the cross-examination is concluded, the petitioners shall produce his witnesses and conclude the same within six months from today. In no case, the Court below shall extend further time as the eviction suit is of the year 1996. However, the petitioners are directed to go on depositing the current and future rent as directed by the Court below failing which again the defence shall be struck off.

With this direction, this Civil Miscellaneous application is allowed. The order striking off the defence of the petitioners is set aside. The payment of arrears of amount before this Court through two cheques is accepted as sufficient compliance of the order passed under Section 15 of the B.B.C. Act.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--

