

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.147 of 2013

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Phool Hassan, Son of Safi Ahmad, Resident of Village-Kachurbari
(Shyampur Bazar) P.O.-Adapur P.S.-Adapur District-East Champaran.
.... Petitioner.

Versus

Vinay Kumar Agrawal @ Vinod Kumar Agrawal, Son of Madan Lal
Agrawal, Resident of Village-Kachurbari (Shyampur Bazar) P.O.-Adapur
P.S.-Adapur District-East Champaran.
.... Respondent.

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.Iii
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

6 27-06-2016

Heard the learned counsel for the petitioner

and the learned counsel appearing for the sole opposite party on
whose behalf a counter affidavit has been filed.

The present application has been filed under
Section 14(8) of the Bihar Buildings (Lease, Rent & Eviction)
Control Act, 1982 whereby the suit filed by the plaintiff-opposite
party seeking eviction of the defendant on the ground of personal
necessity has been decreed.

The learned counsel for the petitioner has
submitted that the learned court below has committed error of
jurisdiction in deciding the question of title of the plaintiff over the
suit land even though such course was not legally open to the
learned court below. It has been submitted that even thereafter the
finding by the learned court below on the issue of title of the

plaintiff is not sustainable on the basis of evidence on record. It has been further submitted that the learned court below has also committed material irregularity in not properly considering the question of partial eviction.

The learned counsel appearing for the plaintiff-opposite party has supported the impugned judgment and order.

After considering the submissions and the perusal of the impugned judgment, it is manifest that the suit has been filed for eviction of the defendant-petitioner from the suit premises on the ground of personal necessity and in that suit the defendant-petitioner has contested the relief of the plaintiff on the basis that there does not exist the relationship of landlord and tenant in between the plaintiff and the defendant. The defendant-petitioner in fact claimed his own title over the suit premises on the basis of oral sale from the original title holder. The learned court below in paragraph-6 of the impugned judgment has observed that in view of the rival claim of title by the parties, the issue of title is to be gone into incidentally and thereafter has proceeded to scrutinize the evidence adduced by the parties in this regard. It also appears that on behalf of the defendant-petitioner only one documentary evidence has been adduced, which was a

rent receipt but the same has been discarded on the ground that the same was obtained during the pendency of the suit. The learned court below has also considered the oral and documentary evidence on record before coming to the conclusion that the relationship of landlord and tenant exists between the plaintiff and defendant. It has also been found on the basis of evidence that the plaintiff has got the personal necessity, as pleaded, for the suit premises and the partial eviction will not satisfy the said necessity. During the course of submission, this Court has not been persuaded to find that the impugned judgment and order is not in accordance with law.

The Constitution Bench of the apex court in the case of ***Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh, 2014 (9) SCC 78*** has considered the scope of the revisional jurisdiction under the Rent Control Act and has laid down that in revisional jurisdiction, there is no scope for reappraisal of evidence in order to reverse the finding of fact unless the same is found to be not in accordance with law.

This revision application thus has got no merit and the same is accordingly dismissed.

(V. Nath, J)

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