

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3788 of 2013

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1. Udai Narayan Sah S/O Late Anchit Sah Resident Of Village-
Bishambharpur, P.O & P.S- Menhasi, District- East Champaran.

.... Petitioner/s

Versus

1. Alok Kumar S/O Late Akhileshwar Prasad Resident Of Village-
Bishmabharpur Pahari, P.O & P.S- Menhasi, District- East Champaran

2. Baidyanath Sah S/O Late Lakhan Sah Resident Of Village-
Bishambharpur Pahari, P.O & P.S- Menhasi, District- East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh -Advocate

For the Respondent/s : Mr. Subodh Chandra Jha -Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 06-04-2016

Heard learned counsel for the petitioner as well as

learned counsel for the respondent no.2.

2. Petitioner is aggrieved by an order dated 23.01.2013 passed by Munsif Sadar, Motihari, East Champaran in Eviction Suit No. 12/2010 whereby and whereunder petition dated 26.04.2012 filed on behalf of petitioner to implead him as a plaintiff has been rejected.

3. Eviction Suit No. 12/2010 was drawn up at the behest of one Alok Kumar claiming himself to be owner of the house in question having over Khesra No. 911 and further, letting it off in favour of Respondent no.2/defendant, Baidyanath Sah in the month of August 2008 on a monthly rental of Rs. 130/-. It has also been disclosed that Respondent no.2/defendant, Baidyanath

Sah became defaulter as he failed to pay rent since October 2010. Furthermore, Alok Kumar, the plaintiff/respondent No.1 also came in need of the building in question and on account thereof, the Eviction Suit was filed on the ground of personal necessity as well as defaulter.

4. Respondent no.2/defendant, Baidyanath Sah appeared and as is evident from the order impugned he had put question mark over authenticity of the version of plaintiff/respondent no.1 to be title holder and in the aforesaid background, denied inter se relationship of landlord and tenant.

5. It is evident that during continuance of aforesaid Eviction Suit No. 12/2010 plaintiff/respondent No., Alok Kumar had sold away land under dispute vide registered sale deed dated 01.09.2011 in favour of the petitioner and on the basis thereof, petitioner had prayed for impleading him as a plaintiff in place of Alok Kumar or as plaintiff no.2.

6. From the order impugned, it is evident that amongst the parties, that means to say, Alok Kumar as well as Baidyanath Sah, Title Suit No. 11/11 is going on with regard to property including the present Survey Plot Number. It is also evident that the learned lower court had refused the prayer only on the ground that uptil now, petitioner has not been impleaded as a

party in Title Suit No. 11/11.

7. Both have got independent identity. Had there been a case of eviction based upon personal necessity, then in that event, petitioner, being a subsequent purchaser would not have been allowed to be impleaded as a party because of the fact that personal necessity would have been extinguished just after execution of sale deed in favour of petitioner by the landlord. Because of the fact that instant Eviction Suit happens to be on account of personal necessity as well as on the ground of defaulter. Defaulter is a theme which continues. Therefore, the purchaser inheriting the interest of his vendor would also carry the theme of default which, as per pleading was going on. Therefore, in the background of aforesaid factual aspect, petitioner's presence is necessary and further be allowed.

8. Consequent thereupon, the order impugned is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

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