

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2055 of 2014

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Muzibur Rahman

.... Petitioner/s

Versus

Sohrab

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nafisuzzoha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

4 03-02-2016

Heard the learned senior counsel, Mr. Raghiv Ahsan for the petitioner and the learned counsel, Mr. Mahendra Thakur for the respondent.

This application has been filed for setting aside the order dated 26.11.2013 passed by the learned Munsif Sadar, Purnea in Eviction Suit No.2 of 2013(CIS No. Eviction Suit-96 of 2013).

The learned senior counsel for the petitioner submitted that the plaintiff-petitioner filed the aforesaid eviction suit for the eviction of the defendant under the Bihar Building Lease, Rent & Eviction) Control Act. The defendant filed contesting written statement. When application under Section 15 was filed for deposit of rent, the Court below directed the plaintiff to convert this eviction suit to regular suit and rejected the application under



Section 15. According to the learned counsel, the plaintiff cannot be compelled to file regular suit and if in fact, there is no relationship of landlord and tenant, the Court below should have passed appropriate order instead of directing the plaintiff to convert the eviction suit to a regular title suit.

On the other hand, the learned counsel for the respondent submitted that the Court after considering the defence of the respondent that he is claiming title on the suit property has rightly directed the plaintiff to convert the suit to a regular title suit.

Admittedly, the suit has been filed under the B.B.C. Act for eviction of the defendant. If the plaintiff will fail to prove the relationship of landlord and tenant between the parties after evidences, the plaintiff's suit for eviction will fail but because the defendant has taken a defence that he is the title holder of the suit premises, the plaintiff cannot be directed to convert eviction suit into the regular title suit. It is the choice of the plaintiff. Therefore, the Court below has wrongly exercised the jurisdiction directing the plaintiff to convert the eviction suit to a regular title suit.

Therefore, the impugned order is set aside and the Court below is directed to pass a fresh order according to law after

hearing both the parties on the application under Section 15 of the
B.B.C. Act on merit.

Accordingly, this writ application is allowed.

(Mungeshwar Sahoo, J)

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