

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17460 of 2015

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Daroga Singh & Anr

.... Petitioner/s

Versus

Ram Tahal Singh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 23-06-2016 Heard the learned counsel, Mr. Bhavesh Kumar Jha, for the petitioner.

By the impugned order dated 26.09.2015, the learned Addl. District Judge, Ara rejected the application filed by the petitioner under Order 41 Rule 27 of the Code of Civil Procedure in Eviction Appeal No.108 of 2010.

It appears that eviction suit was filed by the plaintiff against the tenant for eviction from the suit premises on the ground that after purchased of the suit property by registered sale deed, the plaintiff constructed the house and has inducted the tenant. The tenant denied the allegation made by the plaintiff and also denied relationship of landlord and tenant. The suit was dismissed by the trial Court. Against the said, the plaintiff filed the eviction Appeal No.108 of 2010.

From perusal of the order, it appears that the

petitioner filed application seeking permission to adduce additional evidence by bringing on record the settlement parcha issued to the petitioner in Case No.7 of 78-79. The Court below has rejected the same on the ground that there was sufficient opportunity to the petitioner for bringing this fact during the trial but it was not done.

The Hon'ble Supreme Court in the case of **Union of India vs. Ibrahim Uddin 2013 (1) PLJR 48 SC** has held that **'the general principle is that the appellate Court should not travel outside the record of the lower Court and cannot take any evidence in appeal but it is subject to Order 41 Rule 27. The appellate Court may permit additional evidence only and only if the conditions laid down in these Rule are found to exist. The parties are not entitled as of right to the admission of such evidence. The provision does not apply when on the basis of evidence on record, the appellate Court can pronounce a satisfactory judgment.'**

Thus, I find no reason to interfere with the impugned order and accordingly, this writ application is dismissed.

Sanjeev/-

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(Mungeshwar Sahoo, J)