

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19204 of 2015

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Smt. Manjoo Devi @ Manju Devi & Ors

.... Petitioner/s

Versus

Sanjay Prakash @ Nanhe

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 18-11-2016

Heard learned counsel for the petitioners and learned
counsel for the respondent.

2. Perused the impugned order dated 05.10.2015 passed
by the learned Sub-Judge-7th Gaya in Eviction Suit No. 07 of 2015
whereby the learned court below rejected the application filed by
the petitioner under Section 15 of the Bihar Building (Lease, Rent,
and Eviction) Control Act, 1982 on the ground that the defendant
has denied the relationship of landlord and tenant between him
and the plaintiff.

3. It may be mentioned here that the admitted fact is that
the defendant is not claiming ownership of the suit property.
Therefore, he is residing in the suit premises in the capacity of
tenant. The dispute raised by the defendant is that he is not the
tenant of the plaintiffs-petitioners rather he is tenant of the vendor
of the plaintiffs. The rent agreement is of the year 2006 between



defendant and the vendor of the plaintiffs. Therefore, after purchase, the plaintiff became the owner of the suit premises and, therefore, he has filed the eviction suit. The direction to deposit the monthly rent is not dependant on the fact that whether the defendant attorned the plaintiff or not. Once he contest the eviction suit on any ground, he has to deposit monthly rent as contained under Section 15 of the B.B.C. Act at which it was last paid. Here, the last paid rent is to be deposited by the tenant that doest not mean that if he has not paid the rent to the plaintiffs, he cannot be directed to deposit the rent. Admittedly, the defendant is sending money order to the vendor of the plaintiffs. The vendor of the plaintiffs is not claiming for eviction nor he has claimed the rent. The defence of the defendant that the plaintiffs are not his landlord and he is tenant of vendor of the plaintiffs appears to be peripheral and there is no substance in it and it is only a defence for the shake of defence.

4. So far relationship of landlord and tenant is concerned also, merely because the defendant has denied the relationship of landlord and tenant, the power of the Court to direct him to deposit the rent will not cease. Here it is admitted fact that the defendant is residing in the suit premises or carrying on business in the suit premises as tenant. The plaintiff has already

purchased the property.

5. In my opinion, therefore, the learned court below has approached the case in the manner not permitted by law and has wrongly refused to direct the defendant to pay the monthly rent at which it was last paid. Therefore, the writ application is allowed. The impugned order is set aside and the defendant is directed to deposit monthly rent at the rate which he was sending money order to the vendor of the plaintiffs from the date of 11.03.2010 till the month of November, 2016 within one month from today in the court below and shall go on depositing the monthly rent at the same rate by the 15th of next month i.e the rent for the month of December must be deposited by 15th of January, 2017 and the rent of January, 2017 must be deposited by 15th of February, 2017 and so on and so forth. If the rent will be deposited, the plaintiffs will be at liberty to withdraw the same.

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(Mungeshwar Sahoo, J)