

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.12 of 2014

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Umesh Ravidas S/O Chhotan Ravidas Resident Of Village Maksudpur, P.O. Parthu,
P.S. Ekangarsarai, District Nalanda Petitioner

Versus

Radhika Devi W/O Basudeo Prasad Resident Of Village Dhangawan, P.S.
Ekangarsarai, District Nalanda At Present Residing At Meer Gulabi Bag, Sadar
Gali, P.O. & P.S. Khajekalan, District – Patna Opposite Party.

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad Singh, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 19-10-2016

Heard Mr.R.K.P.Singh, learned counsel appearing
for the petitioner and also the learned counsel appearing for the
opposite party.

By the impugned order the learned court below has
rejected the prayer on behalf of the defendant-petitioner for rejection
of plaint under Order 7 Rule 11 C.P.C.

The suit for eviction of the defendant was filed by
the plaintiff on the ground of default in payment of rent and also the
personal necessity.

The defendant filed the petition stating that the suit
was not maintainable under the provisions of Bihar Building (Lease,
Rent & Eviction) Control Act, 1982, as only a parti piece of land was
given in tenancy to the defendant and therefore the provisions of the
Transfer of Property Act would govern such tenancy.



From the perusal of the plaint (Annexure-1), it does not appear from the averments that the tenancy of the defendant has been created over the parti piece of land rather it appears from those averments including the description of the suit property that it is a house property. The learned counsel for the defendant-petitioner has also accepted the position that the plaint on the basis of the averments which have been made cannot be rejected under Order 7 Rule 11 C.P.C on the ground that the suit was not maintainable under the B.B.C.Act.

After considering the submissions and the facts and circumstances of the case, this Court does not find that the learned court below has committed any error of jurisdiction or material irregularity in rejecting the petition filed by the defendant-petitioner under Order 7 Rule 11 C.P.C.

The revision application is, accordingly, dismissed.

This order, however, shall not prejudice the petitioner from raising his objections in accordance with law at appropriate stages.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2016
Transmission Date	

