

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.734 of 2016**

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Ashok Kumar

.... Appellant/s

Versus

Sudha Rani Sinha

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Nandan Prasad

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 28-09-2016

Heard the learned counsel, Mr. Pankaj Maijowar for the
petitioner.

Perused the impugned order dated 06.06.2016 passed by
Sub Judge IV, Patna in Eviction Suit No.11 of 2013.

It appears that the plaintiff-respondent filed suit for
eviction on the ground of personal necessity alleging that the
plaintiff's husband is a retired officer aged about 79 years and he
possessed an old house situated at Anandpuri. The suit house in
question is, therefore, required for the residence but because the
suit house is not furnished with modern facilities, therefore, the
family members of the plaintiff require the suit premises for living
thereon and for that a new house is to be constructed.

Since the suit was filed on the ground of personal
necessity only, the procedure under Section 14 of the Bihar
Building (Lease, Rent & Eviction) Control Act was adopted and

the suit is being tried under the special procedure. The plaintiff has already concluded the evidence. When the defendant was directed to adduce evidence, this application under Order 26 Rule 9 C.P.C. has been filed by the defendant-tenant-petitioner for appointment of Pleader Commissioner in a suit for eviction which is being tried under Section 14 of the B.B.C. Act.

It may be mentioned here that Section 14 of the B.B.C. Act provides a special procedure and this procedure is mandatory. Therefore, it appears that the petitioner has filed this frivolous and vexatious application only with a view to delay the disposal of the suit which is being tried under the special procedure under Section 14 of the B.B.C. Act. The intention of the petitioner is nothing but to delay the disposal by dilatory tactics and by abusing the process of the Court.

The Court below has rightly dealt with the petition and, therefore, this Civil Miscellaneous application is dismissed with cost of Rs.5,000/- to be paid by the petitioner to the plaintiff-respondent in the Court below within one month failing which the cost shall be realized through the process of the Court. If the cost is deposited, the same may be withdrawn by the plaintiff-respondent.

Saurabh/-

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(Mungeshwar Sahoo, J)