

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.764 of 2016**

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Ashok Arora & Anr

.... Appellant/s

Versus

Chetan Kumar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abinash Kumar

For the Respondent/s : Mr.

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

2 29-09-2016 Heard the learned counsel, Mr. Abinash Kumar, for the
petitioner.

Perused the impugned order dated 06.04.2016 passed by
learned Sub Judge VIII, Patna in Title Eviction Suit No.4 of 2013.

It appears that the plaintiff respondent filed the aforesaid
eviction suit for eviction of the tenant under the Bihar Building
(Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred
as the 'BBC Act') on the ground of personal necessity and default.
The petitioner is contesting the eviction suit. According to him,
there is no relationship of landlord and tenant between the plaintiff
and the petitioner. The petitioner is tenant under the mother of the
plaintiff respondents. The plaintiff respondent filed application
under Section 15 of the BBC Act. By the impugned order, the
Court below has directed the petitioner to deposit the arrears of
rent as well as current rent.

According to the learned counsel for the petitioner, under Section 15 sub Section 2 of the BBC Act, the Court below should have held that unless the person who is entitled to receive the rent is decided, it should have been kept in the deposit of the Court.

Admitted fact as has been submitted by learned counsel for the petitioner is that the petitioner is a tenant. Eviction suit has been filed on the ground of default also. According to the learned counsel, as defined under Section 2 Sub Section (h), the real owner of the property is not required to be the plaintiff in an eviction suit. The definition of landlord includes the person who for the time being receive or is entitled to receive the rent. In view of the above fact, there is no other landlord who is claiming rent, therefore, Section 15 sub Section 2 of BBC Act is not applicable.

In view of the above facts and circumstances of the case and the defence of the petitioner, it clearly appears that the petitioner's defence is not tenable as he is a tenant residing in the suit premises. Therefore, he is liable to pay the rent to the landlord, i.e., plaintiffs during the pendency of the eviction suit.

In such view of the matter, the learned Court below has rightly directed the petitioner. Thus, it cannot be said that the order passed by the Court below is without jurisdiction or that it

has been passed in the manner not permitted by law.

Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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