

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.843 of 2016**

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Ashwini Kumar

.... Appellant/s

Versus

Mr. Sanjay Kumar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prashant Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 19-10-2016

Heard learned Senior Counsel Mr. J.S. Arora for the

petitioner and learned counsel Mr. Jagarnath Singh for the
plaintiff-respondent.

2. Perused the impugned order dated 04.08.2016
passed by Subordinate Judge-IV, Patna in Eviction Suit No.29 of
2015 whereby the learned court below has directed the petitioner
to pay Rs.33,000/- per month as rent and arrears of rent in exercise
of power under Section 15 of the Bihar Building (Lease, Rent and
Eviction) Control Act.

3. It appears that the plaintiff-respondent filed the
aforesaid eviction suit for eviction of the petitioner from the suit
premises i.e. shop nos. T1 and T3. The defendant filed written
statement alleging that in fact he is not tenant in shop nos.T1 and
T3 rather he is tenant in Shop no.T4 and the monthly rent of shop
no.T4 is Rs.23,000/-. The court below by the impugned order
directed the petitioner to pay Rs.33,000/- per month considering

two lease agreements executed between the parties.

4. The learned Senior Counsel Mr. Arora for the petitioner submitted that the petitioner no doubt is a tenant under the plaintiff-respondent with respect to shop no.T4 but he is not tenant in shop no.T1 and T3 but the plaintiff has not described the boundary of the suit shop nos.T1 and T3 and in the garb of T1 and T3 the plaintiff will get the defendant-petitioner evicted from T4. The learned Senior Counsel further submitted that the court below wrongly relied upon two lease agreements as according to the petitioner both these lease agreements are forged documents and for that the petitioner has filed criminal case. The learned Senior Counsel further submitted that the court below has discarded the rent receipts produced by the petitioner, which has been annexed as Annexure-I showing payment of rent of Rs.23,000/- per month.

5. On the other hand, learned counsel appearing on behalf of the plaintiff-respondent submitted that all these aspects of the matter have been considered by the court below and by the impugned order recorded clear finding that from perusal of the lease agreements the monthly rent is Rs.33,000/- and accordingly directed the petitioner to pay the same.

6. At the time of hearing of this civil miscellaneous application when the Court enquired as to who is in possession of shop nos.T1 and T3, the learned Senior Counsel submitted that the

petitioner cannot say as to who is tenant in shop nos.T1 and T3. Now, therefore, in view of submission in fact the petitioner is not related to T1 and T3 shops. According to the petitioner, the court below on the basis of lease agreements found that the petitioner has entered into agreement for lease with respect to T1 and T3. Prima facie, therefore, on the basis of two documents the court below recorded a clear finding. This fact is being concealed by the petitioner on the ground that he cannot say that who is in possession of shop nos.T1 and T3 as both shop premises are in the same floor of the building.

7. So far rent receipt is concerned, according to the petitioner himself, it relates to T4 and the lease agreements annexed with this civil miscellaneous application also relate to T4 and, therefore, those documents are not relevant for consideration in eviction suit with respect to shop nos.T1 and T3.

8. In view of the above facts and circumstances of the case, if the petitioner is not tenant in shop nos.T1 and T3, there is no reason as to why he is fighting the case and contesting the eviction suit. Therefore, I find no reason to interfere with the impugned order and accordingly, this civil miscellaneous application is dismissed.

Harish/-

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(Mungeshwar Sahoo, J)