

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8605 of 2014

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Md. Shamsuddin @ Samsu Son of Late Md. Kabiruddin resident of Mohalla
Sherpur, Bihar Sharif Town, P.O- Bihar Sharif, P.S- Bihar, District- Nalanda.

.... Petitioner/s

Versus

Ajai Kumar Singh Son of Late Ram Niranjana Singh Resident of Mohalla
Garhpar, Bihar Sharif Town, P.O- Bihar Sharif, P.S- Bihar, District- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 28-03-2016

Heard the learned counsel for the parties.

The present application under Article 227 of the Constitution of India has been filed by the defendant-tenant assailing the impugned order by which the prayer of the plaintiff for direction for payment of arrears of rent and current rent for the suit premises under Section 15 of the Bihar Building (Lease, Rent and Eviction) Control Act has been allowed.

The suit has been filed for eviction of the defendant from the suit premises on the basis of expiry of the period of lease and also for personal necessity. During the pendency of the suit, a petition was filed by the plaintiff for direction to the defendant to pay the current rent as well as the arrears of rent. By the impugned order, the learned court below has allowed the prayer of the



plaintiff directing the defendant to deposit the arrears of rent and current rent in the court at the rate of Rs. 1500/- per month. It also transpires from the impugned order that the learned court below has considered the case of the defendant regarding the forged lease deed dated 10.06.2012 and has also taken into notice the case of the defendant that he has vacated the suit premises and thereafter on his request it has been let out to his son-in-law Md. Nawas Ahsan for which the plaintiff has also taken 300000/- (three lacs) by way of Pagri.

The learned counsel for the petitioner has submitted that the defendant-petitioner has vacated the suit premises and thereafter there is no relationship of landlord and tenant between the plaintiff and the defendant. It has been further submitted that the suit premises has been let out to the son-in-law of the defendant after taking a heavy sum as Pagri for which a receipt has also been granted by the plaintiff. On the basis of these facts, it has been contended that the learned court below has wrongly passed the impugned order directing the plaintiff to deposit the amount of arrears of rent and current rent. It has also been canvassed that the defendant has also questioned the lease deed dated 10.06.2012, produced by the plaintiff, as forged and fabricated document manufactured on the basis of his LTI taken

by the plaintiff on some blank papers.

Per contra, the learned counsel for the plaintiff-respondent has submitted that the genuineness, legality or validity of the lease deed dated 10.06.2012 as well as receipt of Rs. 300000/- said to have been paid to the plaintiff by the son-in-law of the defendant for securing the tenancy are the issues which can be determined only on the basis of the evidence to be adduced by the parties during the hearing of the suit and therefore the learned court below has not committed any illegality in recording the finding that prima facie the defendant is the tenant of the plaintiff and liable, thus, to pay the rent.

After perusal of the impugned order and considering the submissions, it is manifest that the defendant has accepted the fact that he was the tenant of the plaintiff at one stage but it is his case that he has vacated the suit premises and on his request, the same has been let out to his son-in-law after receiving an amount of Rs. 300000/- by the plaintiff for which the receipt has also been granted. The defendant has also challenged the genuineness of the lease deed dated 10.06.2012 on the ground that it has been fabricated on the basis of his signature/LTI taken by the plaintiff on blank papers. On the other hand, the plaintiff has contended that the amount of Rs. 300000/- was not received by the son-in-

law of the defendant for grant of lease. As noticed in the impugned order, the defendant has failed to produce any evidence to establish that his son-in-law is now the tenant of the suit premises. In the background of these facts, when the learned court below has directed the defendant to pay the arrears of rent and also current rent at the rate of Rs. 1500/- per month, this Court is not inclined to interfere with the said direction. However, the impugned order is modified only to the extent that the plaintiff shall not be entitled to withdraw the amount deposited by the defendant and if at all the plaintiff seeks to withdraw the said amount that shall be done only after the permission of the court and furnishing the appropriate security for the same to the satisfaction of the court.

The application is, accordingly, disposed of with the aforesaid modification/direction.

(V. Nath, J)

Devendra/-

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