

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.980 of 2016

Pradeep Kumar Sharma

.... Appellant/s

Versus

Bijoy Kumar Bajoria

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Indeshwari Prasad Mandal

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 28-10-2016 Heard the learned counsel, Mr. Indeshwari Prasad Mandal,
for the petitioner.

2) Perused the impugned order dated 26.07.2016 passed by Sub Judge No.13, Bhagalpur in Title Eviction Suit No.4 of 2014 whereby the learned Court below rejected the application filed by the petitioner under Section 11 of the Code of Civil Procedure for deciding the question of res judicata as preliminary issue.

3) From perusal of the impugned order, it appears that the point raised by the petitioner is not a pure question of law. According to the learned counsel, earlier eviction suit of the year 1970 was dismissed up to the Supreme Court. On the same ground, present eviction suit has been filed.

4) In my opinion, so far the ground enumerated in Section 11 of the Bihar Building (Lease, Rent and Eviction) Control Act are concerned, it cannot be said that once there was no default in

future also there cannot any default. Likewise once it was held that there was no subletting in future also, there cannot be ground of subletting. It appears that the intention of the petitioner is to delay the disposal of the eviction suit and with a view to delay the eviction suit, he is adopting dilatory tactics by abusing the process of the Court.

5) Accordingly, this Civil Misc. Application is dismissed with cost of Rs.5000/- to be paid by the petitioner to the plaintiff respondent within one month from today failing which the cost may be realized through the process of the Court. If the cost is deposited before the Court below, the plaintiff respondent shall be at liberty to withdraw the same.

(Mungeshwar Sahoo, J)

Sanjeev/-

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