

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4490 of 2015

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Prem Chand Sah @ Prem Chandra Sah

.... Petitioner/s

Versus

Mst. Sushila Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

4 07-04-2016 **1.** Heard the learned counsel, Mr. Praveen Kumar, for the petitioner.

2. The petitioner has challenged the order dated 13.02.2015 passed by Sub Judge IVth, Bhagalpur in Title (Eviction) Suit No.1 of 2000 whereby the Court below allowed the application under Section 15 of the Bihar Building (Lease, Rent & Eviction) Control Act filed by the plaintiff respondent and directed the petitioner to deposit the current and future rent @Rs.800/- per month.

3. It appears that the plaintiff respondent filed the aforesaid eviction suit for eviction of the petitioner from the suit premises on the ground of default or rent. The petitioner appeared and filed contesting written statement denying the relationship of landlord and tenant and alleged that in fact there is a agreement to

sell the property in favour of the petitioner in the year 1995 and the suit for specific performance being Title Suit No.428 of 2013 has already been filed by the petitioner for enforcement of the agreement.

4. Perused the order passed by the Court below. It appears that earlier the similar prayer was rejected by the Court below on the ground that prima facie there is no relationship of landlord and tenant between the parties. The said order was challenged by the plaintiff before the High Court and the High Court by order dated 03.05.2011 passed in C.W.J.C. No.16969 of 2010 directed the plaintiff respondent to file a fresh application under Section 15 of the Bihar Building (Lease, Rent & Eviction) Control Act and, thereafter, this present application has been filed by the plaintiff respondent. The defendant objected the prayer on this ground as alleged.

5. Admittedly, the ownership of the plaintiff is not challenged. The defendant petitioner has filed suit for specific performance of contract. He is not claiming title on himself over the suit property. In other words, he is contesting the eviction suit on various ground either on relationship of landlord and tenant or that Parti piece of land was given to him by the plaintiff or that he

has constructed the suit premises. But it may be mentioned here that admitted fact is that there is a suit shop premises over the suit land for which the eviction suit has been filed.

6. Section 15 provides that **‘if in a suit for recovery of possession of any building, the tenant contests the suit as regards claiming for ejectment landlord may move an application at any stage of the suit for order on the tenant to deposit rent month by month.’** Here the petitioner is contesting the suit. Although relationship of landlord and tenant is denied but then the petitioner is not denying the title of the plaintiff nor he is explaining under what capacity he is residing in the suit premises.

7. From perusal of the rejoinder to the Section 15 application which has been annexed as Annexure ‘2’ to the writ application, it appears that nowhere the petitioner has denied rate of rent. The question is only because the petitioner has not paid the rent, it cannot be said that the Court has no jurisdiction to direct the petitioner to deposit the rent in view of the above facts and circumstances of the case.

8. In view of my above discussion, I find that the Court below has rightly directed the petitioner to deposit all the arrears

of rent. Therefore, it is not the case for interference in supervisory jurisdiction.

9. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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