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IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.200 of 2016

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Shesh Narayan

.... Appellant/s

Versus

Amlesh Kumar

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Prabhas Ranjan
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

4 31-08-2016 Heard learned counsel for the petitioner and learned counsel for the respondent.

Perused the impugned order dated 03.02.2016 passed by Subordinate Judge-I, Madhubani in Eviction Suit No.04 of 2014 whereby the learned court below rejected the application filed by the petitioner to stay further proceeding in eviction suit during the pendency of the Title Suit No.171 of 2014.

It appears that the aforesaid suit has been filed by the plaintiff for declaration that till 17.02.2023 the petitioner cannot be evicted from the suit premises. The said suit was filed against the vendor of the plaintiff of eviction suit and in that suit the plaintiff of eviction suit i.e. respondent herein is a formal party. The present eviction suit has been filed under the special enactment i.e. Bihar Building (Lease, Rent & Eviction) Control, Act. Now, therefore, the question to be decided in this eviction

suit filed by the plaintiff-respondent is entirely different than the question that can be decided in the title suit filed by the petitioner. The petitioner is not claiming any title on the property. He has filed the suit for declaration that till 17.02.2023 he cannot be evicted. Therefore, this question is to be decided in the title suit and for that purpose eviction suit filed under the B.B.C. Act cannot be stayed and rightly it has not been stayed by the court below.

Thus, this civil miscellaneous application is devoid of merit and accordingly, it is dismissed.

(Mungeshwar Sahoo, J)

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