

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Second Appeal No.314 of 2013**

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Prabha Devi W/O Jai Mangal Singh Resident Of Mohalla- Chandwa More,  
P.S.- Ara Nawada, District- Bhojpur  
..... Plaintiff ..... Appellant

.... .... Appellant

Versus

1. Indu Bhushan Tiwary Son Of Shyam Bihari Tiwary R/O Mohalla-  
Chandwa More, P.S.- Ara Nawada, District- Bhojpur
2. Fani Bhushan Tiwary Son Of Shyam Bihari Tiwary R/O Mohalla-  
Chandwa More, P.S.- Ara Nawada, District- Bhojpur  
..... Defendants ..... Respondents

.... .... Respondents

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**Appearance :**

For the Appellant/s : Mr. Bhubneshwar Prasad

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL ORDER**

5      19-01-2016                      Heard Mr. S.P.Srivastava, learned Counsel appearing for  
the appellant.

2. The plaintiff is the appellant in this appeal against the judgment and decree of affirmance dismissing the suit for eviction by the plaintiff. The plaintiff filed the eviction suit seeking eviction of the defendants from the suit premises on the ground of default in payment of rent and personal necessity. The plaintiff claimed her title over the suit land and further pleaded that she had inducted the defendants as tenant in the suit premises on the monthly rental of Rs. 250/- per month. The defendants in the written statement denied the relationship of landlord and tenant in between the plaintiff and the defendants and came out with their own entitlement to possession over the suit premises on the basis of agreement with the landlord. The defendants also denied title of the plaintiff over the

suit premises.

3. The trial court returned the finding on the crucial issue of relationship of landlord and tenant in between the plaintiff and the defendants against the plaintiff and held that the plaintiff had failed to establish by cogent evidence that the defendants were tenant in the suit premises. In appeal by the plaintiff, the appellate court below on reappraisal of evidence concurred with the finding of the trial court on the main issue of relationship of landlord and tenant and after deciding other issues also against the plaintiff has dismissed the appeal by the impugned judgment and decree.

4. Mr. Shrivastava, learned Counsel appearing for the appellant, has mainly submitted that both the courts below have not properly considered evidence on record and particularly the deposition made by D.W. 7 wherein he has stated that the house of the plaintiff and the suit premises are joint. No other submission has been made on behalf of the appellant.

5. After perusal of the judgments of both the courts below and considering the submission it is manifest that the suit for eviction has been filed by the plaintiff on the ground of personal necessity and default in payment of rent. However, the plaintiff has failed to establish the relationship of landlord and tenant with the defendants. The courts have also found that the plaintiff has not led oral or documentary evidence in support of the said issue to establish the relationship of landlord and tenant with the defendants. In a suit for eviction existence of relationship of landlord and tenant is a *sine qua non*. It further appears from the judgments of both the courts below

that the findings have been recorded on the basis of appreciation of evidence and this Court has not been persuaded to find any illegality or perversity with the same in any manner.

6. In view of the aforesaid facts, this Court does not find any substantial question of law arising for consideration in this appeal, which is accordingly dismissed.

**(V. Nath, J.)**

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