

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.77 of 2011

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Keshar Deo Chamariya, Son of late Ganpat Roy Chamariya @ Manglu Ram Chamariya, R/o Mohalla- Bekapur Chowk Bazar, P.S.-Kotwali, District-Munger
....Defendant- Petitioner

Versus

Dayanand Prasad, S/o Rati Ram Chandra Prasad, R/o Mohalla- Chowk Bazar, Bekapur, near State Bank of India, Bazar Branch, P.S.-Kotwali, District-Munger
....Plaintiff –Opposite Party.

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Appearance:

For the Petitioner : Mr. T.N. Maitin, Sr. Adv.
Mr. Rajeev Kumar Sinha, Adv.
For the Opposite Party: Smt. Sudha Ambasth, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 30-09-2016

Heard Mr. T.N. Maitin, learned senior counsel for the petitioner and Smt. Sudha Ambasth, learned counsel for the opposite party.

The present revision application has been filed under Section 14(8) of Bihar Building (Lease, Rent & Eviction) Control Act, 1982 against the judgment and decree dated 03.03.2011 passed in Eviction Suit No.9 of 2005/ 5 of 2009 by the learned Munsif I, Munger granting the decree of eviction to the plaintiff against the defendant-petitioner.

From the materials on the record as well as from the submissions, it transpires that the suit has been filed by the plaintiff-opposite party seeking eviction of the defendant from the suit premises which is a shop in the market place, on the ground of



personal necessity for establishing a business. According to the case of the plaintiff, the suit premises is required for himself as he has retired from service and intends to start a business for his son, who is unemployed and for his nephew, who though carrying on a business in a rented shop but is facing eviction by his landlord. The defendant has contested the assertions of the plaintiff and resisted the grant of decree for eviction. It will be pertinent to mention here that the relationship of landlord and tenant with the plaintiff has not been denied by the defendant-petitioner.

The trial court after scrutiny of the pleadings and evidence adduced by the parties has recorded the finding on the issue of bonafide personal necessity in favour of the plaintiff and has granted the decree for eviction as prayed. However, Mr. T.N. Maitin, learned senior counsel for the petitioner has submitted that the plea of personal necessity as raised by the plaintiff is not legally sustainable as the plaintiff has taken a vague stand claiming that the suit premises is required for himself, for his son and also for his nephew. Learned senior counsel has placed the averments made in the plaint and written statement in this regard to persuade this court to take the view that the plaintiff has failed to specifically plead and establish his bonafide and reasonable requirement for the suit premises. It has been next contended that the question of partial eviction has also not been



correctly decided by the trial court.

Mrs. Ambasth, learned counsel for the opposite party, while refuting the contentions raised on behalf of the petitioner, has submitted that the learned court below has recorded the findings on the basis of the materials on record and the same do not deserve interference in the revisional jurisdiction. Learned counsel has pointed out that the defendant- petitioner has purchased a shop in front of the suit premises and has also successfully obtained a decree for eviction against the tenant in that premises and has also come in possession of the said premises. Learned counsel has also placed the order dated 31.03.2014 of this court passed in C.R. No. 20 of 14 affirming the order of delivery of possession in favour of the wife of the present petitioner for the premises purchased by the present petitioner in front of the suit premises. The learned counsel has also brought to the notice of this court the order dated 11.07.2011 passed in the present revision application regarding the stand of the petitioner with regard to the purchase of another shop premises.

Before considering the rival submissions on behalf of the parties, it would be fruitful to take into notice the order dated 11.07.2011 passed in the present revision application by which the prayer on behalf of the petitioner for stay of further proceeding of the execution of the impugned decree was allowed. The relevant portion



of the said order reads as follows:

“Heard the learned counsel appearing on behalf of the petitioner. He has submitted that the petitioner has now purchased his own house and his wife has also purchased a shop in front of the suit premises. But the petitioner has filed a suit for eviction seeking eviction of the tenants from his purchased house as abovesaid. It has been also submitted that in view of these facts the petitioner is not interested in continuing for a long time in the suit premises.”

From the perusal of the impugned judgment, it is demonstrably clear that the learned court below has elaborately scrutinized the evidence led on behalf of the parties and thereafter has recorded the finding that the plaintiff has succeeded in establishing the bonafide personal necessity for the suit premises. During the course of submission, it could not be pointed out on behalf of the petitioner that any submission was made on behalf of the petitioner before the court expressing his agreement for his part eviction from the suit premises. No evidence has also been brought to the notice of this court in this regard in support of the legal tenability of the claim of partial eviction. The learned court below has considered the materials available on record while coming to the conclusion that the partial eviction of the tenant-defendant from the suit premises would not satisfy the requirement of the plaintiff. The stand of the petitioner



as noticed in the order dated 11.07.2011 abovementioned also cannot be ignored while evaluating the submissions.

After considering the submissions and perusal of the materials on record as well as the facts and circumstances of the case, this court comes to the conclusion that the findings recorded by learned court below are based upon evidence which were acceptable and could have been relied upon. This Court has not been persuaded to find any illegality or perversity in any manner in the impugned order.

In the said background of the facts, this court, therefore, comes to the conclusion that the impugned judgment and decree has been passed according to law and deserve no interference.

The revision application is, accordingly, dismissed.

(V. Nath, J.)

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