

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8608 of 2014

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Nand Kishore Goshwami S/o Late Kesho Goshwami resident of Village
Naya Bazar, Ward no. 16, Police Station+ P.O and District- Lakhisarai.

.... Petitioner/s

Versus

Permila Tibrewal wife of Late Girdhari Lal Tibrewal Resident of Village
Naya Bazar, Police Station and District- Lakhisarai. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

2 03-03-2016

Heard the learned counsel for the parties.

By the impugned order, the learned court below has
refused to recall the order closing the evidence of the defendant.

The suit has been filed for eviction of the defendant
on the ground of default in payment of rent and personal necessity.
The evidence of the plaintiff was closed on 22.10.2013 and
thereafter the suit was posted for evidence of the defendant. In
view of the fact that the defendant did not lead any evidence nor
any Pairvi was made, the evidence of the defendant thereafter was
closed by order dated 15.01.2014. Thereafter the petition has been
filed on 07.02.2014 by the defendant for recall of the said order
and grant an opportunity to lead evidence.

The learned counsel for the petitioner has submitted
that the petitioner was ill and therefore the evidence could not be

led.

The learned counsel for the plaintiff-respondent, however, has refuted the assertions on behalf of the petitioner and has submitted that sufficient opportunity was granted by the learned court below to the defendant to lead evidence.

After considering the submissions and materials on record, this Court is of the opinion that an opportunity be granted to the defendant to lead evidence within a time frame and after compensating the plaintiff with cost.

Accordingly, this application is allowed. The impugned order is set aside and the defendant is granted opportunity to lead evidence within 15 days of the date from the receipt/production of this order in the learned court below and pay a cost of Rs. 5000/-. The payment must be paid to the plaintiff by depositing the same in the learned court below and the same shall be a precondition for proceeding further in the suit. The plaintiff shall be at liberty to withdraw the said amount. As the defendant has been granted opportunity to lead and close his evidence within 15 days, the learned court below is, accordingly, directed to hear the matter on day to day basis and to facilitate the defendant to complete his evidence within the time frame as the suit has been filed for eviction on the ground of

default in payment of rent and personal necessity.

The writ application is accordingly disposed of with
direction and observations.

(V. Nath, J)

Devendra/-

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