

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.118 of 2014

=====

Naresh Singh Son of Ram Kishun Singh R/o Village Panhans, P.S. Mufassil,
District Begusarai, at present Shop Styled as Pinki Dresses Opposite Sahadat
Market, Begusarai, P.S. Mufassil, District Begusarai

..... DefendantAppellant

.... Appellant

Versus

Arvind Kumar Singh Son of Braj Kishore Prasad Singh R/o Village Janki Niwas,
Kachahari Road, Begusria, P.S. town, District Begusarai

..... Plaintiff Respondent

.... Respondent

=====

Appearance :

For the Appellant/s : Mr. Raghu Nath Singh

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-06-2016

Heard learned Counsel for the appellant.

2. The appellant was defendant in a suit for eviction filed on the ground of default in payment of rent. Both the courts below have granted the decree for eviction as sought by the plaintiff recording the finding of fact that the defendant has committed default in payment of rent.

3. The learned Counsel for the appellant has submitted that the appellant is a 70 years old person and he has got no other source of livelihood except the shop in question and, therefore, notice may be issued to the plaintiff-respondent so that the matter may be compromised. On behalf of the appellant, however, it could not be shown that the concurrent finding of fact on the issue of default as recorded by both the courts below are perverse or unreasonable in any manner.

4. After considering the submission and perusal of the judgments of both the courts below, it is manifest that the courts below have disbelieved the case of the defendant-appellant that he had paid

the rent till June 2001 to the father of the plaintiff and thereafter remitted the same through money order. On the basis of evidence it has also been found that father of the plaintiff namely Braj Kishore Singh died on 24.3.2001 and, therefore, the plea of payment of rent to the father of the plaintiff till June 2001 has been rejected. Both the courts below have disbelieved the statement of the defendant in his examination in chief as well as in the written statement regarding payment of rent either to the father of the plaintiff till 2001 and thereafter sending it through money order. This Court finds that the finding of fact recorded by both the courts below on the issue of default in payment of rent has been recorded on the basis of evidence and there is no perversity or unreasonableness in the same. The submission by the learned Counsel for the appellant that in view of age of the appellant and considering his plight notice be issued in this Second Appeal upon the plaintiff-respondent, is clearly misconceived in view of the specific provision under Section 101 of the CPC, which envisages maintainability of a Second Appeal only on the basis of substantial question of law arising.

5. As this Court has found that the findings of fact have been recorded by both the courts below on the basis of evidence on record and the same is not perverse or unreasonable, this Court does not find any substantial question of law arising for consideration in this appeal, which is accordingly dismissed.

Snkumar/-

(V. Nath, J.)

AFR/NAFR	
CAV DATE	
Uploading Date	01.08.2016
Transmission Date	