

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.822 of 2016

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Lalta Mistri

.... Appellant/s

Versus

Virendra Kumar Sah

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Prasad Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 03-10-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 21.05.2016 passed by learned Munsif, Danapur, Patna in Title Eviction Suit No.01 of 2015 whereby the court below directed the defendant-petitioner to deposit rent at the rate of Rs.2,000/- per month under Section 15 of the Bihar Buildings (Lease, Rent & Eviction) Control Act.

Learned counsel for the petitioner submitted that the petitioner is regularly paying rent to the elder brother of the plaintiff. Secondly the learned counsel submitted that the elder brother of the plaintiff filed application under Order 1 Rule 10 of the Code of Civil Procedure for being added as party but the learned court below without giving opportunity to him has rejected the intervention application. According to the learned counsel, the petitioner is not a defaulter and is regularly paying rent, therefore, the court below could not have directed the petitioner to deposit

the rent.

From perusal of the impugned order, it appears that only defence of the petitioner is that he was paying rent but has not produced any rent receipt in the court below. The plaintiff-landlord has filed some documentary evidences in the court below. The court below on the basis of the said documentary evidences clearly recorded that in partition, property has been allotted in favour of the plaintiff. In such circumstances when the defendant-petitioner is contesting the eviction suit, the court below has the jurisdiction to pass order under Section 15 of the Bihar Buildings (Lease, Rent & Eviction) Control Act. Therefore, the order passed by the court below cannot be said to be without jurisdiction or it has been passed in the manner not permitted by law.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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