

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13872 of 2014

=====

Abdul Sattar

.... Petitioner/s

Versus

Ramendra Prasad Sinha @ Shukarji & Anr

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 16-02-2016

At the time of hearing of the interlocutory application being I.A. No.9055 of 2015, the learned counsel for the petitioner submitted that the writ application itself may be heard on merit in admission matter. Accordingly, I heard him on merit in admission matter.

Heard learned counsel Mr. Abu Haidar for the petitioner.

By the impugned order the court below has rejected the application filed by defendant no.2-petitioner for passing an order for dismissing the suit on the ground that the suit is itself as abated for non-substitution of the legal representatives of the deceased respondent no.1.

Perused the order passed by the court below. It appears that the plaintiff-respondent filed the suit for eviction against defendant nos.1, 2 and 3 and it is alleged by the plaintiff

that defendant no.1 has sublet the suit property to defendant no.2. The defendant no.2 filed written statement alleging that he is not sub-lessee of defendant no.1, he is owner of the property and is in exclusive possession of the property vide paragraph 7 of the written statement which has been annexed as Annexure-2 to this writ application. The court below in the impugned order held that because the defendant no.2 is in possession of the entire suit property and it is the allegation of the plaintiff that the defendant no.1 has sublet the property to defendant no.2 and further that the suit for eviction will not abate for non-substitution of the legal representatives of the deceased respondent no.1. Admittedly it is not the case of the defendant no.2 that the legal representatives/heirs of deceased respondent no.1 are tenant and are in possession of the suit property. In such view of the matter I find no reason to interfere with the impugned order in supervisory jurisdiction.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Harish/-

U			
---	--	--	--