

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10721 of 2014

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Dhananjay Kumar

.... Petitioner/s

Versus

Sanjay Kumar Bhadani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 04-01-2016

Heard learned counsel for the petitioner and learned
counsel for the respondent.

By the impugned order dated 26.02.2014 passed by the
learned Munsif, Hilsa in Eviction Suit No.01 of 2012 the court
below has rejected the application filed by the defendant-petitioner
praying for directing the plaintiff-respondent to open the lock of
the shop in question.

The learned counsel for the petitioner submitted that he
is admittedly the tenant of the plaintiff but during the pendency of
the eviction suit the plaintiff has locked the shop premises as a
result of which the defendant-petitioner is facing difficulty as the
shop premises was the only source of livelihood. The court below
wrongly held that this matter will be decided after the evidence is
adduced by the parties.

On the other hand, the learned counsel for the plaintiff-

respondent submitted that in fact the shop premises was sublet by the defendant-petitioner to one Shambhu Prasad @ C.I.D.(defendant no.2) and he has locked the shop premises. In such circumstances, there is no question of direction to the plaintiff for open the lock of the shop premises arises.

Perused the impugned order. The court below considering these disputes between the parties came to the conclusion that unless the evidences are brought on record as to who has locked the shop premises, the plaintiff cannot be directed to open the lock as according to the plaintiff he has never locked the shop premises.

In view of the above order passed by the court below the same cannot be interfered with in supervisory jurisdiction as it is disputed question of fact.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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