

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.45 of 2015

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1. Dinesh Kumar, son of Late Baldev Prasad Khatik, resident of Mohalla-Sabzi Bazar, Nawada, P.S.+P.O.+District- Nawada.

.... Petitioner/s

Versus

1. Saroj Gupta @ Saroj Devi, wife of Sri Sanjeev Kumar
2. Sanjeev Kumar, son of Birendra Prasad
3. Smt. Bhawani Gupta, wife of Santosh Kumar All are resident of Mohalla-Sabzi Bazar, Nawada, P.S.+P.O.+District- Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Prasad Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 28-09-2016

Heard learned counsel for the petitioner.

This revision application has been filed against the order dated 21.01.2015 passed in Eviction Suit No.2 of 2010 by the learned Munsif, Nawadah, whereby the court below has rejected the application filed by the defendant- petitioner for dismissing the suit on the ground of res judicata.

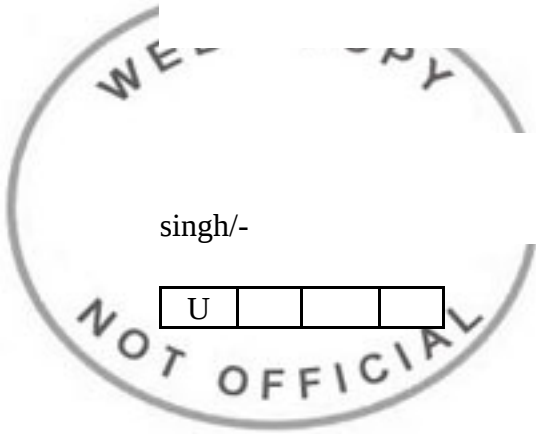
Learned counsel for the petitioner has submitted that prior to this Suit there was earlier an eviction suit against the father of the defendant, who was the tenant of the predecessor-in-interest of the plaintiff. After transfer of property in his favour the plaintiff of the present suit filed a petition for being impleaded in that suit, which was though allowed but the prayer of the plaintiff

for filing written statement was not allowed. It is contended on this basis that the present suit for eviction filed by the plaintiff would be barred by res judicata as the prayer for filing written statement was rejected in that suit.

After perusal of the impugned order and consideration of the submissions the fact is evident that the present suit has been filed by the plaintiff for eviction of the defendant from the suit premises. It is also manifest that the earlier suit was not filed by the plaintiff but filed by his predecessor in interest on the ground of personal necessity against the father of the defendant. The issues which have been raised in the present suit were definitely not the issues in the previous suit between the same parties. This court is of the view that the application filed by the defendant in the present suit was only for the purpose of delaying the proceeding on frivolous grounds. This Court, therefore, is not inclined to interfere with the impugned order. The present application is accordingly dismissed.

However, as the suit for eviction is of the year 2010, the court below is directed to take up the suit and dispose it of preferably within a period of three months from the date of receipt/ production of a copy of this order. The court below is further directed to follow the provisions of the CPC as introduced

by amendment to ensure expeditious disposal of the suit and
forestall dilatory tactics of the defendant.



(V. Nath, J)