

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.57 of 2014

Janardan Prasad Singh Son Of Late Surya Narain Singh Resident Of Village - Badalpura, Police Station - Matihani, District - Begusarai At Present Residing At Begusarai Town Ward No. 20 Roop Chhaya Press, Near Tarhinath Mandir, Nagar Parishad Begusarai, Police Station - Begusarai Town And District - Begusarai

.... Petitioner

Versus

1. Smt. Tara Devi Wife Of Harihar Prasad Choudhary
2. Harihar Prasad Choudhary Son Of Late Ramsarup Choudhary Both Are Resident Of Cheriya Bariyarpur, District - Begusarai
3. Sri Parshuram Choudhary Son Of Sri Radha Krishna Choudhary Resident Of Village - Chariya Bariarpur, Police Station - Cheria Bariyarpur, District - Begusarai All Of Present Residing At Mohalla - Pokharia Police Station Town Begusarai, District - Begusarai

.... Respondents

Appearance :

For the Petitioner/s : Mr. Shashi Dhar Jha

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 10-05-2016

Learned counsel for the opposite party no.1 has submitted that opposite party no.2 has died during the pendency of this application.

Learned counsel for the petitioner has, in response, prayed to expunge the name of the opposite party no.2 Harihar Prasad Chaudhary, stating that his widow is already on record as opposite party no.1.

In this view of the matter the name of the opposite party no.2 Harihar Prasad Chaudhary, as prayed, is expunged from the

revision application after taking notice of the fact that the one of his heirs is already on record as opposite party no.1.

Heard Mr. Shashi Dhar Jha, learned counsel appearing on behalf of the petitioner and Mr. Gopal Prasad Roy, learned counsel appearing on behalf of the opposite parties.

The present revision application has been filed under Section 14(8) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982, (hereinafter referred to as the 'B.B.C. Act').

There is no dispute that the present petitioner is the tenant of the opposite parties. It has also not been disputed that the present petitioner is holding the suit premises as tenant wherein he is carrying on his business of printing press.

The suit for eviction was filed on the ground of personal necessity alone wherein the plaintiff asserted that the suit premises was required for establishing the son and nephew of the plaintiff in business. It was also the case of the plaintiff that the house, in which the suit premises was situated, was old and dilapidated and therefore, it was necessary to demolish the same and/or to undertake extensive repairs. The defendant contested the case of the plaintiff on the ground that the son and nephew of the plaintiff were already established inasmuch as one of them was holding a medicine shop in Bettiah and another one was doing Thikedari. It was also the case of the

defendant that the suit premises or the house in which it was situated was not in dilapidated condition.

Both the parties adduced oral and documentary evidence. After considering the issues framed in suit, the learned court below, after scrutiny of the oral and documentary evidence has come to the conclusion that the plaintiff's requirement for the suit premises is bonafide and reasonable. Accordingly the judgment and decree for eviction has been passed against the defendant/petitioner which is impugned in the present revision application.

Mr. Jha learned counsel appearing for the petitioner however, has put emphasis on the fact that the son and nephew, for establishing whom in business the suit has been filed, have been already doing their business and therefore, the case of personal necessity set up by the plaintiff is not bonafide. Learned counsel has also contended that the business carried on by the petitioner on the suit premises is the only source of his livelihood whereas the plaintiff-opposite parties have got other premises and therefore, also the case of personal necessity can not be said to be reasonable. However, it appears from the perusal of the impugned judgment that these aspects have been considered by the court below, and thereafter the finding has been recorded on the basis of appreciation of evidence. In fact the submissions on behalf of the petitioner have centered around re-

appreciation of evidence to arrive at a different conclusion but in view of the Constitution Bench judgment by the Apex Court in the case of **Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh, 2014(9) SCC page 78** the said course is not permissible under the revisional jurisdiction under a Rent Control Act.

This court therefore comes to the finding that the judgment of the learned court below is in accordance with law and this revision application has got no merit.

In view of the aforementioned reasons and discussions, this revision application is dismissed.

(V. Nath, J)

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