

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9650 of 2014

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Shiva Kishore Singh @ Mahesh Singh Son of Late Lal Bahadur Singh R/o Village-
Purna Khaira, P.S- Khaira, District- Jamui, presently the President District
Congress Committee, Jamui, District- Jamui.

.... Petitioner.

Versus

1. Sita Ram Rajak Son of Late Thakur Rajak R/o Moh. Krishnapatti, P.S+ District-
Jamui.
2. Arvind Choudhary Son of Ganesh Choudhary
3. Ganesh Chaudhary Son of Kishun Chaudhary Both 2 AND 3 are R/o Mohalla-
Krishnapatti, Puja Tailor House, P.S+ District- Jamui.
4. Santosh Pandit Son of Palho Pandit R/o Village- Kalyanpur, P.S+ District-
Jamui.
5. Murari Keshri Son of Rameshwar Keshri R/o Mohalla- Maharajganj, P.S+
District- Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Amar Prakash

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-05-2016

V.Nath, J.

Heard the learned counsel for the petitioner.

Challenging the impugned order by which the learned
court below has turned down the prayer of the defendant-petitioner for
rejection of plaint under Order 7 Rule 11 C.P.C., the present
application under Article 227 of the Constitution of India has been
filed.

The learned counsel for the petitioner has submitted that
the petitioner was added a party as defendant in the suit subsequently
and thereafter he has filed the petition under Order 7 Rule 11 C.P.C

praying for rejection of plaint on the ground that the plaintiff has not alleged any cause of action against him. It has been contended that the learned court below has committed illegality and material irregularity in passing the impugned order refusing to reject the plaint under Order 7 Rule 11 C.P.C. No other submission has been made on behalf of the petitioner.

After considering the submissions and the materials on record, it is evident that the suit has been filed for eviction. The petition filed by the present petitioner in the suit has been annexed as Annexure-2 and the averments made in the said petition demonstrate that the present petitioner who is defendant no.4 in the suit has claimed himself as owner of the suit premises and has further claimed that the defendant nos.1 and 2 are tenants under him in respect of the suit property. The other averments show that the present defendant-petitioner has denied the existence of relationship of landlord and tenant between the plaintiff and the defendants and has emphasized that the suit is fit to be dismissed for want of explanation for filing the suit under the provisions of B.B.C Act.

In view of the aforesaid averments in the petition, this Court does not find that the learned court below has committed any error of jurisdiction or illegality in rejecting the prayer of the petitioner for rejection of the plaint.

The application is , accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
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