

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.223 of 2016**

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Ms. Manorama Jha

.... Appellant/s

Versus

Aristo Pharmaceuticals Pvt. Limited & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

4 24-10-2016

Heard learned counsel, Mr. J.S. Arora, appearing for the petitioner and learned counsel, Mr. Sacchidanand Chaudhary appearing for the respondents.

2. Perused the impugned order dated 03.05.2016 passed by the Sub-Judge-8th, Patna in Eviction Suit No. 73 of 2012, whereby the court below rejected the application filed under Section 15 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982. The learned court below held that there is dispute regarding the arrears of rent, which can be decided after the evidence and the suit is at the very initial stage.

3. In my opinion, the ground for rejection of the application under Section 15 of the B.B.C Act is not tenable. The relationship of landlord and tenant is admitted between the parties. Likewise the rate of rent is also admitted by the parties. It is also admitted that from the month of August, 2012, the defendants-respondents was remitting the rent, which was not accepted by the plaintiff-petitioner. Therefore, the rent from August, 2012 till

October, 2014 is not deposited nor it was ever accepted by the plaintiff as such the rent for these months is in arrear. So far claim of the plaintiff-petitioner regarding non payment of rent from the month of October, 2011 till July, 2012 is concerned, it is disputed between the parties. According to defendants, they have already paid this rent whereas according to plaintiff-petitioner no payment has been made. Therefore, this part of rent is concerned, it may be decided finally on the basis of the evidence that may be produced by the parties. So far admitted part of the arrears of rent is concerned, the defendant is required to deposit the rent in the court below according to Section 15 of the B.B.C. Act but the learned court below failed to exercise the jurisdiction vested in it by law. Accordingly, this civil miscellaneous application is allowed. The impugned order passed by the court below is, hereby, set aside. The defendants are directed to deposit the rent from the month of October, 2011 @ Rs. 7935/- per month up to October, 2014 within 15 days from today. The plaintiff shall withdraw the arrears of rent from the month of August, 2012 till October, 2014. So far rest amount from the month of October, 2011 till July, 2012 is concerned, the successful party shall withdraw the same.

Brajesh/-

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(Mungeshwar Sahoo, J)