

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3196 of 2016

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M/s Gautam Budha Hospital & Shodh Sanshthan Pvt. Ltd. Through Pankaj Kumar Sinha @ Pankaj Singh	 Petitioner/s
Versus	
Smt. Shanti Sinha	 Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahendra Prasad Verma
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 15-07-2016 Heard the learned counsel, Mr. Mahendra Prasad Verma, for the petitioner.

Perused the order dated 10.11.2015 passed by Sub Judge II, Biharsharif, Nalanda in Eviction Suit No.1 of 2006.

It appears that the Court below has only adjourned the case giving last chance to the petitioner. In such view of the matter in supervisory jurisdiction, this routine order cannot be interfered with.

Perused the other order challenged in this application under Article 227, i.e., order dated 9.10.2015 passed in the said eviction suit whereby the Court below rejected the application for examination of the expert for proving that in fact Rs.5 lakhs has been advanced by the petitioner to the plaintiff respondent and that amount is to adjusted in the arrears of rent. The Court below held

that for non-compliance of the order under Section 15 of the Bihar Building (Lease, Rent & Eviction Control) Act, the defence of the petitioner has already been struck off.

It may be mentioned here that in the defence, this plea has been raised by the petitioner that the petitioner has given Rs.5 lakhs for the purpose of constructing the building. It is not the case of the petitioner that prior to institution of the suit, the petitioner ever demanded adjustment of the amount in the rent. It is settled principle of law as has been held by the High Court reported in **1999 (1) PLJR 714** that there cannot be any automatic adjustment of the amount advanced.

In view of the above facts and circumstances of the case, the Court below has rightly rejected the application filed by the petitioner for examination of the expert. Therefore, I find no reason to interfere with the impugned order.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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