

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.4 of 2016

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Gopal Kumar Khatriwal @ Gopal Khatriwal Son of Keshardeo Khatriwal Resident of Todarmal Lane, P.S. - Kotwali, Bhagalpur, District - Bhagalpur.

.... Petitioner

Versus

1. Smt. Geeta Devi Dokania Wife of Ram Chandra Dokania Resident of D.N. Singh Road, Sujaganj in the town of Bhagalpur, P.S. - Kotwali, District - Bhagalpur.

2. Firm Bhuramal Deshardea, D.N. Singh Road, Sujaganj, Bhagalpur, Through its Managing Partner Khwsarela Khatriwali.

3. Khesaddeo Khatriwala S/o Bhurawal Khatriwala

4. Nirmal Kheriwala S/o Keshardea Khatriwala 3 & 4 are residents of Todarmal Lane, P.S. Kotwali, District - Bhagalpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Adv.
Mr. Anil Kumar Singh

For the Opposite Parties : Mr. Deepak Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-09-2016

Heard Mr. Shivendra Kumar Sinha, learned counsel appearing for the petitioner and Mr. Deepak Kumar Sinha, learned counsel appearing for the opposite parties.

The present revision application has been filed under Section 14(8) of the Bihar Building (Lease, Rent & Eviction) Control Act, questioning the judgment and order of eviction.

The relationship of landlord and tenant in between the plaintiff and defendant is not in dispute. The suit has been filed for eviction of the defendant from the suit premises on the ground of personal necessity. The suit premises is admittedly a shop. The learned court below has passed the judgment and order of eviction

against the defendant after hearing the parties and considering the evidence adduced by them.

Mr. Sinha, learned counsel appearing for the petitioner has submitted that prior to this suit another suit for partition was filed by the plaintiff-opposite parties against the defendant-petitioner and the said suit was bifurcated into two suits one of which was tried on the issue of default in payment of rent and another was tried on the issue of personal necessity as pleaded by the plaintiff. It has been pointed out by the learned counsel for the petitioner that in the suit which was tried on the issue of default there was a compromise decree whereby the defendant agreed to pay the enhanced rate of rent to the plaintiff but the suit on the issue of personal necessity was however dismissed. It has thus been argued that the present suit which has been filed for personal necessity by the plaintiff for starting her own business cannot be said to be bonafide and the learned court below has committed material irregularity in recording the findings of fact.

Mr. Deepak Kumar Sinha, learned counsel appearing for the plaintiff-opposite party, however, has submitted that the defendants themselves have admitted the fact that the plaintiff has been carrying on her business in a rented premises and a suit for eviction has been filed by the landlord of the said premises against them. It has, therefore been canvassed that the bonafide and

reasonable requirement of the plaintiff for the suit premises is clearly established from the said fact and law. The learned counsel further also while supporting the impugned order has contended that the findings of facts have been recorded on the basis of appreciation of evidence.

The ambit and scope of the revisional jurisdiction under the Rent Control Acts has been settled by a constitution bench of the apex court in the case of ***Hindustan Petroleum Corporation L.T.D. Vs. Dilbahar Singh, 2014 (9) SCALE 657*** where their lordships have laid down the principles for exercise of such jurisdiction and have ruled that the revisional court is only to see whether the judgment and order of eviction is according to law. It has been further held that the reappraisal of evidence is not within the scope of jurisdiction of revisional court under the Rent Control Act unless the findings are shown or established to be perverse.

Tested on the anvil of the principles as laid down by their lordships, it is evident from the impugned judgment that the learned court below has elaborately dealt with the pleadings and evidence adduced on behalf of the parties in support of their rival cases. It is also not the case on behalf of the petitioner that the impugned judgment is illegal for want of non-consideration of any part of the pleading or evidence. It is further also demonstrably clear from the impugned judgment itself that the defendants have accepted

that the plaintiff of the present suit is carrying on her business in a rented shop premises and her landlord has filed the suit for eviction against her for the said shop premises. This fact has also been corroborated by Exts. T and T/1 relating to the said suit of eviction filed by the plaintiff. Though the learned counsel for the petitioner has submitted that in the said shop it is the son of the plaintiff carries on his business but that will not make any difference and will not have any impact on the right of the plaintiff to sue for eviction as her earlier suit for eviction for establishing her son in business was dismissed on the same ground. This Court, therefore, finds that the learned court below has not committed any error of jurisdiction or material irregularity in recording the findings on the issue of personal necessity as well as on the issue of partial eviction. This Court also comes to the conclusion that there is no perversity or unreasonableness in the findings recorded by the learned court below which are according to law.

Ex consequenti, this Court does not find any merit in this revision application, which is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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