

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14014 of 2015

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Gautam Sharma & Ors

.... Petitioner/s

Versus

Anil Kumar Sharma & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 04-01-2016 1. Heard the learned counsel for the petitioner on the
interlocutory application No.7396 of 2015.

2. At the time of hearing of the interlocutory application,
the learned counsel for the petitioner submitted that the writ
application itself may be heard on merit in admission matter.
Accordingly, I heard him on merit in admission matter. A
supplementary affidavit has been filed today at the time of hearing
in admission matter.

3. This application under Article 227 of the Constitution of
India has been filed by the tenant petitioner for setting aside the
order dated 03.08.2015 passed by Sub Judge-I, Jehanabad in Title
Suit No.104 of 2013 whereby the Court below directed the tenant
petitioner to deposit rent in the Court from the date of the order
onwards.



4. The learned counsel for the petitioner's main grievance is that the plaintiff is not the landlord of the petitioner rather the father of the plaintiff has inducted the present petitioner and the petitioner is paying rent to the father of the plaintiff regularly. There is no relationship of landlord and tenant between the parties but the Court below by the impugned order has directed the petitioner to pay the rent to the present plaintiff.

5. Perused the order passed by the Court below. It appears that the Court below found that the title of the present plaintiff has been declared in Title Suit No.74 of 2008 and the plaintiff has been held to be the title holder of the subject matter of the suit. The petitioner is not claiming title on the suit property. The father of the plaintiff is not party to the eviction suit whereas in this writ application, the petitioner has made the father as party respondent and it is submitted that he is the only person to say as to whether he is receiving the rent or not.

6. It further appears that the Court below has found that the schedule of the property mentioned in the Title Suit No.74 of 2008 is the same as that of the present eviction suit. Now, therefore, in view of the above finding recorded by the Court below that the plaintiff has been held to be the owner of the

property and the subject matter of eviction suit as well as the title suit is same and that the petitioner is only disputing the relationship of landlord and tenant and his case is that he is paying rent to father of plaintiff he can not be absolved from depositing the in the as directed by Court as he is not claiming ownership. Therefore, it is clear that the impugned order has been rightly passed by the Court below as such no interference is called for.

7. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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