

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11474 of 2015

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Pramila Devi & Ors

.... Petitioner/s

Versus

Sahdeo Ram

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Narain Mallik

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 29-04-2016

Heard learned counsel, Mr. L.N. Das, appearing for the petitioners.

2. The plaintiff-respondent filed Eviction Suit No. 594 of 2014 for eviction of the petitioners from the suit premises. The defendants-petitioners filed written statement denying the relationship of landlord and tenant. Subsequently, application was filed for deciding the issue regarding maintainability of eviction suit by a co-sharer against the other co-sharer as preliminary issue and the court below by the impugned order has held that this question can only be decided at the final hearing of the suit.

3. It is admitted fact that the plaintiff has filed the eviction suit alleging that the petitioners are the tenant. Therefore, whether the petitioners are co-sharers or the plaintiff-respondent is the co-sharer is entirely a foreign question to be decided in an eviction suit. The only issue to be decided is whether there is

relationship of landlord and tenant between the parties or not. So far the maintainability of eviction suit is concerned, it is dependant on this question regarding relationship and this relationship can only be decided after the evidences are adduced by the parties, therefore, it is not a pure question of law. As such, the court below has rightly not decided the issue at this stage and has rejected the application.

4. In such view of the matter, I do not find any reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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