

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.36 of 2017

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Md. Arif, Son of Abdul Khalique, Resident of Village/ Mohalla- Bichali,
Town- Jehanabad, P.O.+ P.S.+ District- Jehanabad.

... .. Petitioner/s

Versus

1. Anjani Kumari, Widow of Late Indrajeet Prasad,
2. Abhijeet Chandra,
3. Sanjeet Chandra Both Sons of Late Indrajeet Prasad,
All Resident of Town Jehanabad, Mohalla- Chhoti Sanghat, New Sabjee
Market, P.O. & P.S. Jehanabad, District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abbas Haider
		Mr. ranjay Kumar singh
For the Respondent/s	:	Mr. Uday Narayan Singh
		Mr. Kumar Rajesh

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date : 07-11-2017

The present civil revision application has been filed, under Section 14 (8) of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred to as 'the Act'), against the judgment and decree, dated 25.11.2014, passed by learned 1st Additional Munsif, Jehanabad, in Eviction Suit No. 19 of 2010/46 of 2014, whereby the said eviction suit has been decreed in favour of the respondents-plaintiffs and the petitioner-defendant has been directed to vacate the suit premises, which is a shop.



2. This application is barred by limitation inasmuch as delay of 2 years 1 month and 1 day has been reported by the Registry.

3. I. A. No. 1507 of 2017 has been filed seeking condonation of delay.

4. The plea, which has been taken in the limitation petition is that as wrongly advised, the petitioner had filed Title Appeal No. 1 of 2015/12 of 2015, against the impugned judgment, which came to be dismissed by an order, dated 28.06.2016, passed by learned 5th Additional District Judge, Jehanabad. The petitioner thereafter preferred a second appeal before this Court, registered as Second Appeal No. 456 of 2016. Since question of maintainability arose in the said second appeal, as against the decree in an eviction suit, where the said decree was passed on the ground of personal necessity, the petitioner withdrew the said second appeal with liberty to seek remedy in accordance with law. The second appeal, accordingly, stood dismissed as withdrawn, by an order, dated 18.01.2017, whereafter on 28.02.2017, the present civil revision application has been filed.

5. It is evident from the submission in the said interlocutory application that the petitioner was pursuing his remedy before a wrong forum, which caused delay in filing the



present civil revision application, under Section 14 (8) of the Act. A case for condonation of delay is made out as the Court is satisfied that the petitioner was prevented by sufficient cause, leading to delay in filing of the present civil revision application.

6. However, since the matter relates to eviction of the petitioner, as tenant, from the suit premises, under the Act, I am of the view that a reasonable cost should be imposed before condoning the delay.

7. I. A. No. 1507 of 2017 is, accordingly, allowed with cost of Rs. 20,000/- to be paid by the petitioner to the respondents within a period of six weeks from today. The delay is hereby condoned.

8. Learned Counsel appearing on behalf of the petitioner, while assailing the impugned judgment, has raised a very short issue. He has submitted that the decree of eviction has been granted on the ground that the suit premises are reasonably and in good faith required by the respondents for their own occupation, but the finding recorded in the impugned judgment is not supported by any reasoning or discussion on this point. It has been submitted that the Court below has simply held the respondents to be the owners of the suit premises and further, has held existence of relationship of landlord and tenant between the petitioner and



the respondents, but there is no discussion as to how respondents required the suit premises reasonably and in good faith for their own occupation.

9. Learned Counsel appearing on behalf of the respondents, on the other hand, has submitted that upon considering ample evidence on record to suggest that the plaintiffs/respondents, who were unemployed and did not have any other source of income, required occupation of the suit premises for their own non-residential purpose.

10. Upon perusal of the impugned judgment, I find that learned Counsel for the petitioner is correct in his submission. The Court below has framed issue no. 7 as : “*Are the plaintiffs in need of the suit premises for their personal use and repairing?*” The said issue has been decided with Issue Nos. 5 and 6. What I notice from the impugned judgment is that there is no discussion at all based on the evidence that the respondents reasonably required the suit premises for their personal non-residential use. There are discussions on the question of title of the respondents and relationship of landlord and tenant between the petitioner and the respondents. As a matter of fact, the relationship of landlord and tenant between the petitioner and the respondents is not at all in dispute. The impugned judgment is being assailed only on the



ground of lack of finding supported by reasons holding that the respondents were in need of the suit premises for running their own business.

11. In that view of the matter, in my view, the impugned judgment and decree, dated 25.11.2014, requires interference. The same is accordingly set aside. The matter is remanded back to the Court below for considering the only question of the requirement of the suit premises by the respondents for their personal non-residential use, since as on the date, there is no dispute of existence of landlord-tenant relationship between the contesting parties.

12. Since this is an old matter, pending since 2010, when the eviction suit was filed, I dispose of this application with a direction to the Court below to expeditiously decided Issue No. 7, with reference to the evidence already adduced at the trial, preferably within a period of three months from the date of communication of the present judgment and order.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	20-11-2017
Transmission Date	20-11-2017

