

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.97 of 2017**

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Rupam Kumari, Daughter of Late Lal Prasad Yadav, Resident of Globe Star and Travels, Nirmala Market, Boring Canal Road, Near Indira Pant Bhawan, P.O.-L.B.S. Nagar, P.S.-S.K. Puri, District-Patna.

.... Appellant/s

Versus

Vinod Kumar Verma @ Neelu Verma

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 23-01-2017 Heard the learned counsel Mr. Vishwanath Chaudhary
for the petitioner.

Perused the impugned order dated 05.09.2016 passed by Sub-Judge V, Patna in Title Suit No. 5328/2014, whereby the application filed by the respondent for unlocking the suit premises has been allowed by the court below.

Admittedly, the petitioner has filed eviction suit under the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 for eviction of the tenant-respondent being Eviction Suit No. 144/2015. Therefore, the petitioner, herein, is admitting the fact that the respondent is tenant under her. The eviction suit is pending and no decree for eviction has been passed. Section 11 of the BBC Act provides that notwithstanding anything contained in any contract or law to the contrary but subject to the provisions of



the Industrial Disputes Act and to those of Section 18, where a tenant is in possession of any building, he shall not be liable to be evicted therefrom except in execution of a decree passed by the court on one or more of the following grounds:

(a)...

(b)..... etc.,

Admitted fact in the present case is that still decree has not been passed. The tenant-respondent filed the suit being Title Suit No. 5328/2014 praying for declaration that he is the tenant of the petitioner who is defendant in the suit and prayed for restraining the present petitioner from forcefully dispossessing the respondent from the suit premises. Thereafter, he filed the application praying for direction to the present petitioner to open the lock which has been put by the petitioner in the suit premises during the pendency of the suit.

In view of the above facts and circumstances of the case that eviction suit is still pending and the relationship of landlord and tenant is admitted between the parties. No decree for eviction has been passed and the petitioner has put the lock during the pendency of either the eviction suit or the present suit filed by the tenant praying for injunction also. The court below has rightly directed the present petitioner to open the lock put by her without



there being any authority of law. Therefore, I am not inclined to interfere with the impugned order dated 05.09.2016 passed in Title Suit No. 5328/2014. Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J.)

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