

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.26 of 2015

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1. Smt. Amarjeet. Wife of Shri Baldev Raj resident of Mohalla - Motijheel, Baisakhi Ram Lane, Police Station - Town Muzaffarpur, presently Ward No. 24, District - Muzaffarpur.

.... Petitioner/s

Versus

1. Bimla Devi. Wife of Late Krishnadeo Prasad resident of Mohalla - Motijheel, Tara Mandal Complex, Ward No. 24, Police Station - Town Muzaffarpur, P.O.- Muzaffarpur, District - Muzaffarpur.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. H.P.Singh
Mr. Suresh Kumar
For the Respondent/s : Mr. Vikas Mohan

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL JUDGMENT

Date: 18-05-2017

1. Heard both parties.

2. This revision has been preferred against the order dated 28.11.2014 passed by learned Addl. Munsif V, Muzaffarpur in Eviction suit no. 07/2004 by which and whereunder he rejected the petition filed by the petitioner under Order 7 rule 11 (d) of the CPC.

3. Opposite party filed Eviction suit no. 07/2004 against the petitioner of the present petition on the ground of personal necessity but the petitioner filed a petition under Order 7 rule 11 (d) of the CPC raising this plea that Eviction suit no. 07/2004 does not disclose any cause of action and liable to be rejected under Order 7 rule 11 (d) of the CPC.

4. Learned counsel appearing for the petitioner submits that, as a matter of fact, the petitioner filed petition under Order 7 rule 11 (a) of the CPC but inadvertently, in petition in place of under Order 7



rule 11 (a) of the CPC, it was wrongly typed as under Order 7 rule 11 (d) of the CPC. He further submits that under Order 7 rule 11 (a) of the CPC says that if a plaint does not disclose any cause of action, plaint should be rejected at initial stage. He further submits that in the present matter, plaint of opposite party does not disclose any cause of action because she has another space for running business and, therefore, the learned trial court has committed error in rejecting the petition filed by the petitioner but I am not at all convinced with the aforesaid submissions because admittedly, Eviction suit no. 07/2004 has been filed by opposite party on personal necessity and at para 34 of the plaint, it has specifically been pleaded that cause of action arose on Ist January, 2004 when opposite party was in urgent need of disputed premises for starting her business. Therefore, in my view, learned trial court rightly rejected the petition filed by the petitioner under Order 7 rule 11 (a) of the CPC.

5. On the basis of the aforesaid discussions, I do not find any force in this revision petition and accordingly, this civil revision petition stands dismissed at the admission stage itself.

Shahid

(Hemant Kumar Srivastava, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

