

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16519 of 2013

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Smt. Durgesh Nandini , W/o Shri Hari Shankar Prasad Sinha, Resident of
Mohalla-Motijheel, Ayodhya Prasad Lane, PS.+Town and District-
Muzaffarpur.

.... Plaintiff-Petitioner

Versus

1. Satya Narayan Lal S/o Late Bishwanath Prasad
2. Smt. Kamlawati Devi,W/o Shri Satya Narayan Lal
Both resident of Mohalla-Motijhil, P.S. Town, P.O.-Head Office
Muzaffarpur, District-Muzaffarpur.

.... Defendants-Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Advocate
For the Respondent/s : Mr. Jitendra Kishore Verma, Advocate
Mr. Anjani Kumar, Advocate
Mr. Abhishek Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 20-11-2017 Heard learned counsels for the petitioner and the
respondents.

2. This writ application has been filed by the plaintiff-
petitioner for quashing the order dated 16.05.2013 passed by
Munsif, East, Muzaffarpur in Eviction Suit No.21 of 2008. The
learned court below after hearing the parties rejected the petition
filed by the petitioner under Section 15 of the Bihar Building
(Lease, Rent and Eviction) Control Act.

3. The petitioner herein has filed the aforesaid Eviction
Suit for eviction of defendants. She filed a petition under Section
15 of the Bihar Building (Lease, Rent and Eviction) Control Act
praying therein to direct the defendants to make payment of



current rent as well as arrears of rent.

4. After hearing both sides and perusal of record, I find that the husband of plaintiff and defendant no.1 are full brothers. It has been alleged that the father-in-law of petitioner executed a sale deed on 22.05.2002 and put her in possession thereof. The plaintiff filed eviction suit claiming title on the basis of said sale deed. The defendants-respondents denied the relationship of landlord and tenant. The case of defendants is that the house in question was joint property in possession of both the parties. The defendant and husband of plaintiff partitioned the house having equal share therein as per memo of partition duly signed by defendant and the husband of petitioner. The sale deed propounded by plaintiff is forged and fabricated document and she did not acquire any right, title or possession on the basis of same. The defendants-respondents having come to know about the sale deed, has filed Title Suit No.704 of 2009 for setting aside the sale deed of the plaintiff. It has been submitted that the total area allegedly conveyed in favour of the plaintiff as per the sale deed is 7 dhoor. In column 5 of the sale deed, the land has been described as vacant land and there was no house. In the eastern boundary the name of father of defendant is mentioned which shows that the father of defendant remained in possession of 2 dhoor land. Even if the case



of plaintiff is accepted, the defendant inherited right and title over the house after the death of his father. The plaintiff has filed the said suit with respect to the land and house over which the respondents are in exclusive possession. On the basis of memorandum of partition, the plaintiff cannot evict the respondents by suppressing all these facts. The court below finding bona fide land dispute between the parties, lack of relationship of landlord and the tenant between the parties and pending of Title Suit No.704 of 2009 has rightly rejected the petition filed under Section 15 of the Bihar Building (Lease, Rent and Eviction) Control Act.

5. In view of the above facts, the order rejecting the petition filed under Section 15 of the said Act does not suffer from any illegality. This writ application is devoid of merit and accordingly, it is dismissed.

(Sanjay Kumar, J)

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