

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.97 of 2014

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Nirbhay Kumar Singh, Advocate, son of Guneshwar Prasad Singh, resident of Road No.25F, P.O. Keshari Nagar, P.S. Rajiv Nagar, Town and District-Patna-24.

.... Petitioner.

Versus

Smt. Neelam Devi, wife of Doctor Sri Chandra Kishore Prasad Sinha, resident of Road No.25F, Rajiv Nagar, P.S. Rajiv Nagar, Town and District-Patna, at present residing at Quarter No.1, S.S. P.G. Hospital, Kabir Chaura, Varansi (U.P.).

.... Opposite Party.

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Appearance :

For the Petitioner : Mr. Dharendra Kumar Singh

For the Opposite Party : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 30-03-2017

Heard learned counsel for the petitioner and perused the records of the case.

2. This Civil Revision Application has been filed against the order dated 05.04.2014 passed by the learned Munsif-III, Patna, in Eviction Suit No.22 of 2010 by which and whereunder the learned Munsif-III, Patna, rejected the petition filed on behalf of petitioner under Order VII Rule 11(a) & (d) of the Code of Civil Procedure.

3. The Opposite party filed Eviction Suit No.22 of 2010 against the petitioner seeking relief for eviction of the petitioner from Cooperative Plot No.96, appertaining to Khata No.493, Tauzi No. 5130, Survey Plot No.2815 (part), area 10792 sq. ft., situated in Digha, now in Mohalla- Rajiv Nagar, Road No.25F, P.S- Rajiv Nagar, District- Patna, on the ground that the aforesaid premise was taken by the petitioner on rent in



January 1998 at the monthly rental of Rs.1200/- but the petitioner defaulted in payment of rent since July 2009. The summons was issued to the petitioner and he appeared and filed a petition under Order VII Rule 11(a) and (d) of the Civil Procedure Code and apart from that, the petitioner also filed a petition under Order XI Rule 1 of the Civil Procedure Code as well as some other petitions. The learned Munsif-III, Patna, rejected the petition filed on behalf of the petitioner under Order VII Rule 11 (a) and (d) of the Civil Procedure Code passing the impugned order dated 05.04.2014.

4. The stand of the petitioner is that he is not a tenant of opposite party rather he resides with his father on different plot. Learned counsel appearing for the petitioner submits that the aforesaid eviction suit was filed in the year 2010 and the petitioner denied the relationship of landlord and tenant but even then the aforesaid eviction suit is pending since long. He further submitted that the learned Munsif-III, Patna, ought not to have rejected the plaint filed on behalf of the petitioner under Order VII Rule 11(a) and (d) of the Civil Procedure Code but I am not at all convinced with the aforesaid submission because the plaint can only be rejected on the ground mentioned under Order VII Rule 11 of the Civil Procedure Code but the petitioner wants the rejection of plaint of Eviction Suit No 22 of 2010 on the ground of denial of relationship of landlord and tenant, which is not permissible under Order VII Rule 11 of the Civil Procedure Code. However, in course of hearing, learned counsel for the petitioner submits that this Court may direct the trial court to proceed with the aforesaid eviction suit and dispose of the same expeditiously and also



pass appropriate order on the pending petitions filed on behalf of the petitioner.

5. In view of the aforesaid facts and circumstances as well as submissions of the learned counsel for the petitioner, this Civil Revision Application stands dismissed on admission stage itself. However, learned Munsif-III, Patna/ concerned court is directed to expedite the hearing of Eviction Suit No.22 of 2010 and to dispose of the aforesaid Eviction Suit No.22 of 2010 as early as possible, preferably, within six months from the date of receipt/ production of copy of this order and the concerned court should also pass appropriate order on the pending petitions filed on behalf of the petitioner before disposal of the aforesaid eviction suit.

6. It is also made clear that dismissal of this Civil Revision Application shall not cause any prejudice to the court below at the time of disposal of the case as well as pending petitions.

(Hemant Kumar Srivastava, J)

N.K/-

Date- 18.04.2017

