

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.3 of 2017**

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Mohan Mistri

.... Appellant/s

Versus

Manjar Hasnain & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anish Chandra Sinha
Mr. Krishna Murari Rawt

For the Respondent/s : Mr.

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

2 16-01-2017 Heard the learned counsel, Mr. Anish Chandra Sinha for
the petitioner.

Perused the impugned order dated 25.05.2016 and
03.08.2016 passed by Munsif, Ara in Eviction Case No.9 of 1991
whereby the learned Court below rejected two applications filed
by the petitioner. The first application, filed by the defendant-
petitioner, was for converting the eviction suit to regular title suit
and the subsequent application was filed for deciding the question
about maintainability of the eviction suit on the ground that there
is no relationship of landlord and tenant.

At the time of hearing of this civil miscellaneous
application, the learned counsel, Mr. Anish Chandra Sinha for the
petitioner submitted that in application under Section 15 B.B.C.
Act, filed by the plaintiff-respondents, an order has already been



passed by the Court below to the effect that there is no relationship of landlord and tenant between the parties. Therefore, there is no question of directing the defendant to deposit the arrears of rent arises and, therefore, according to the learned counsel, the suit should have been converted to regular title suit and/or the Court below should have decided the question of maintainability of the eviction suit in view of the aforesaid finding.

So far the finding recorded in a proceeding under Section 15 of the B.B.C. Act is concerned, it is an interlocutory matter and the same shall not operate as resjudicata in the final decision of the suit. So far the prayer for deciding the preliminary issue is concerned, that is the main issue which is to be decided finally in the suit on the basis of the evidence that may be adduced by the parties.

Accordingly, I do not find any reason to interfere with the impugned order in exercise of supervisory jurisdiction and thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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