

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.765 of 2016

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Chand Mauleshwar Prasad @ Chandra Moleshwar Prasad, S/o Gopal Prasad,
Resident of (Proprietor Guideline) 143/B.P.C. Colony, Kankarbagh, P.S.
Kankarbagh, District- Patna

(defendant).... Petitioner

Versus

Dr. Anjishnu Prakash, S/o Dr. Ayodhya Prasad Singh Prakash, R/o MIG House No.
43 Lohia Nagar, Kankarbagh Colony, P.S. Kankarbagh, District- Patna.

(.plaintiff).. Respondent/s

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Appearance :

For the Appellant/s : Mr. Uma Shankar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 25-04-2017

Heard Mr. Uma Shankar Singh, learned counsel for the
petitioner.

The tenant is the petitioner in this application and has
assailed the impugned order by which the learned court below has
directed the defendant-petitioner, in the suit for eviction, for
payment of arrears of rent and current rent at the rate of Rs. 2000/-
per month.

Learned counsel for the petitioner has submitted that
the tenancy is admitted and the defendant-petitioner is in occupation
of the suit premises as tenant of the plaintiff-respondent. However, it
has been contended that the rate of rent was Rs. 1260/- per month
which fact is apparent from money order receipts which have been



annexed as Annexure-5 series to this application. In sum and substance, the contention on behalf of the petitioner is that the order passed by the learned court below directing the petitioner to pay the rent at the rate of Rs. 2000/- per month is arbitrary and without any basis.

Earlier, notice was issued to the respondents with further direction to the petitioner to go on depositing the rent at the rate of Rs. 1260/- per month. Learned counsel for the petitioner has submitted that the notice has been validly served upon the respondent. However, the respondent has remained unrepresented when this matter was heard.

Learned counsel for the petitioner has submitted that the direction of this Court for depositing the current as well as arrears of rent at the rate of Rs. 1260/- has been complied with.

From perusal of the impugned order it transpires that no reason has been assigned by the learned court below for disbelieving the case of the petitioner that the tenancy in question has been created for Rs. 1260/- per month as rent. No material has been referred by the learned court below for accepting the contention and claim of the plaintiff-respondent that the rate of rent was Rs. 2000/- per month. After perusal of the money order receipts it transpires that the petitioner has sent the rent by money orders at the rate of Rs.



1260/- per month. There is, therefore, no material to the contrary to take another view. Accordingly, the present application is allowed and the impugned order is quashed. However, the petitioner shall continue to deposit the rent at the rate of 1260/- per month in compliance of the direction as contained in the impugned order.

It is clarified here that the determination of the said rate of rent at the rate of Rs. 1260/- per month has been made only for the purposes of Section 15 of the Bihar Building (Lease, Rent & Eviction) Control Act, 1992 and such direction will not prejudice the case of the parties.

(V. Nath, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.6.2017
Transmission Date	

