

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.323 of 2017**

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Smt. Jai Shree Devi

.... Appellant/s

Versus

Jai Prakash Singh Yadav & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar

For the Respondent/s : Mr.

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

2 21-02-2017 **1.** Heard the learned counsel, Mr. Hemendra Prasad Singh,
for the petitioner.

2. From perusal of impugned order, it appears that the present petitioner filed the amendment application praying for declaration of his title by way of amendment in a eviction suit. By the impugned order dated 20.01.2017, the Court below has rejected the same. Admittedly, the evidence of both the parties have already been concluded.

3. *The Hon'ble Supreme Court in 2014 (2) Supreme Court Cases 788 at paragraph 30 1 has held as follows:*

“30.On a seemly analysis of the principle stated in the aforesaid authorities, it is quite vivid that there is a difference in exercise of jurisdiction when the civil court deals with a lis relating to eviction brought before it under the provisions of Transfer of Property Act and under any special enactment pertaining to eviction on specified grounds. Needless to say, this court has cautiously added that if alternative relief is permissible



within the ambit of the Act, the position would be different. That apart, the Court can decide the issue of title if a tenant disputes the same and the only purpose is to see whether the denial of title of the landlord by the tenant is bona fide in the circumstances of the case. We respectfully concur with the aforesaid view and we have no hesitation in holding that the dictum laid down in Bhagwati Prasad, A.I.R. 1966 Supreme Court 735 and Bishwanath Agarwalla, (2009) 15 Supreme Court Cases 693 are distinguishable, for in the said cases the suits were filed under the Transfer of Property Act where the equitable relief under Order VII Rule 7 could be granted.”

4. In view of the aforesaid decision of the Hon’ble Supreme Court, there is difference in exercise of jurisdiction when the Civil Court deals with a lis relating to eviction brought before it under the provision of Transfer of Property Act and under any special enactment pertaining to eviction on specified ground. The Supreme Court further held that if alternative relief is permissible within the scheme of the Act, the position would be different. It is admitted fact that in the scheme of the Bihar Building (Lease, Rent & Eviction) Control Act, there is no provision of alternative relief.

5. The Hon’ble Supreme Court in the case of ***Rajendra Tiwary Vs. Basudeo Prasad AIR 2002 SC 136*** has held that ‘under the BBC Act, a limited enquiry pertaining to the status of the parties, i.e., relationship of landlord and tenant would be undertaken. Once the relationship of landlord and tenant is



negatived then under the scheme of the Act, there is no necessity to enter into enquiry with regard to the title of the plaintiff.

6. In view of the above facts and circumstances of the case when the scheme of the BBC Act do not provide for alternative relief, the Court below has rightly rejected the amendment application.

7. Thus, no case for interference in exercise of supervisory jurisdiction is made out. Accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

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