

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.33 of 2017**

**In
C.R. 286 of 2016**

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Ramakant Singh & Anr

.... Appellant/s

Versus

Ram Udgar Singh & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Sumiran Singh

For the Respondent/s : Mr.

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

- 4 30-01-2017 1. Heard the learned counsel for the petitioner.
2. Perused the impugned order dated 01.10.2016 passed by the learned Munsif IInd, Begusarai in Title (Eviction) Suit No.4 of 2016 whereby the learned Court below directed the petitioner to pay Rs.12,000/- arrears of rent within seven days.
3. The learned counsel for the petitioner submitted that the Court below had no jurisdiction to direct the defendant to deposit the arrears of rent prior to institution of the suit. In the present case, the suit has been instituted in the year 2014 and the Court below has directed the petitioner to deposit arrears of rent from the month of September, 2013. According to the learned counsel, Division Bench of this Court reported in *AIR 1990 Patna 107* has held that the direction to deposit arrears of rent prior to institution



of the suit is ultra vires.

4. So far the decision relied upon by learned counsel for the petitioner is concerned, it may be mentioned here that this view has already been overruled by the Full Bench decision of this Patna High Court reported in **1996 (1) PLJR 732**. Therefore, in my opinion, this Civil Misc. application has been filed because of ill advise, as such this application is frivolous, vexatious and has been filed with a view to delay the disposal of the eviction suit.

5. Thus, this Civil Misc. application is dismissed with cost of Rs.5,000/- to be paid by the petitioner to the plaintiff respondent within two months from today failing which the same may be realised through the process of the Court.

(Mungeshwar Sahoo, J)

Sanjeev/-

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