

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.688 of 2017

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Suresh Mahto Son of Late Shiv Nandan Mahto, Resident of Village-Benipur
Nawada, P.S.-Dalsingsarai, District-Samastipur.

... .. Appellant/s

Versus

1. Basant Kumar Choudhary, Son of Hemant Kumar Chaudhary, R/o Village-Keota Kothi, P.S.-Dalsingsarai, District-Samastipur,
2. Arun Mahto, S/o Late Shiv Nandan Mahto
3. Kailash Mahto, S/o Late Shiv Nandan Mahto Both 2 & 3 R/o Village Benipur Nawada, P.S.-Dalsingsarai, District-Samastipur,

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 18-10-2017 Heard learned Counsel for the petitioner.

The petitioner is aggrieved by an order, dated 18.02.2017, passed, by learned Additional District Judge II, Samastipur, in Eviction Appeal No. 03 of 2011, whereby he has dismissed an application filed on behalf of the petitioner under Order 41 Rule 5 of the Civil Procedure Code (hereinafter referred to as 'the Code').

The argument has been made, at length, by learned Counsel appearing on behalf of the petitioner, who submitted that the petitioner was able to establish *prima facie* case before the learned Court below. According to him, there is no relationship of landlord and tenant between the petitioner and



the opposite parties.

Be that as it may, I am not inclined to interfere with the impugned order, dated 18.02.2017, which cannot be said to be suffering from perversity, requiring this Court's interference.

Learned Counsel for the petitioner has submitted that though the argument on behalf of the petitioner has been concluded before the Court below, the opposite parties are unnecessarily seeking adjournment so as to ensure that the decree of eviction is executed during the pendency of the appeal.

I need not comment upon such submission for the present.

I direct the Court below to expedite disposal of the appeal and dispose it of preferably within a period of three months from the date of communication of the present order.

The Court below shall not grant any adjournment to the other side unless some compelling circumstance exists.

This application is, accordingly, disposed of.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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