

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.56 of 2016

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Dhirendra Kumar @ Dharmendra Kumar, Son of Late Rajnath Singh, Resident of Ground Floor, 31/CA, People's Co-operative Colony, Kankarbagh, P.S.-Kankarbagh, District-Town-Patna.

.... Petitioner

Versus

Smt. Anchala Kumari, Wife of Sri Komalam Prashant, daughter of Sri Ram Kishroe Prasad, presently residing at Komal Niwas "Opposite Handloom House, Patliputra Path, Rajednra Nagar, P.S.-Kadamkuan, Town and District-Patna through her duly constituted and appointed attorney Sri Komalam Prashant, Son of Sri Amrendra Komalam, residing at Komal Niwas, Patliputra Path, Opposite Handloom House, Rajednra Nagar, P.S.-Kadamkuan, Towan and District-Patna

..... Respondent.

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Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 22-03-2017

Heard Mr. Shambhu Sharan Singh, learned counsel appearing for the petitioner.

By the impugned order, the learned court below has turned down the objection as raised by the defendant in his petition dated 27.05.2014 questioning the maintainability of the suit. The opposite party has filed the suit for eviction of the defendant from the suit premises on the ground of personal necessity. The objection as raised by the defendant-petitioner in the petition dated 27.05.2014 is that the suit has been filed by the opposite party through her power of attorney holder, therefore, in view of the provision of Section 11(a)(c) the suit is not maintainable. The learned court below, by the impugned



order, has disposed of the petition holding that the question of maintainability of the suit shall be considered at the time of final hearing of the suit.

After considering the submissions and averments made in the petition including the impugned order, it is manifest that the suit has been filed by the opposite party for eviction of the defendant on the ground of personal necessity. The only objection on behalf of the petitioner in the suit is that as the suit has been filed through power of attorney holder, the same is not maintainable under Section 11(1) (c) of the B.B.C.Act, as the personal necessity must be of the owner of the premises and not of the power of attorney holder. However, it does not transpire from the averments made in the revision application or from the materials on record that the suit has been filed by the said power of attorney holder claiming his own personal necessity rather the suit has been filed by the opposite party herself asserting her own personal necessity. In this view of the matter, this Court does not find the objection raised by the defendant to be prima facie tenable. As the learned court below has directed for consideration of the issue of maintainability of the suit at the time of trial of the suit, this Court is not inclined to interfere in the impugned order.

The revision application is, accordingly,



dismissed.

(V. Nath, J)

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