

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.888 of 2018**

Pradip Kumar Sur

.... Petitioner/s

Versus

Smt. Rekha Sinha @ Rekha Roy & Ors

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar Jha

For the Respondent/s : Mr. Raj Kishore Roy -Gp18

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

2 07-08-2018

Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 02.06.2018 by which the petition of respondent No.3 to implead him as defendant in the Eviction Suit No.2 of 2003 has been dismissed.

Petitioner is defendant in Eviction Suit No.2 of 2003. Petitioner filed a petition to implead State of Bihar as a defendant in the suit as the nature of land on which the shop of the petitioner is standing is khasmahal and the same belongs to the State of Bihar. The State of Bihar through Collector also filed a petition to implead the Collector as defendant in the suit but by the order impugned dated 02.06.2018, Sub Judge II, Purnia dismissed the petition that in an eviction suit the only question to be decided that whether any relationship of landlord and tenant is existing between the plaintiff and defendant.



Learned counsel for the petitioner submits that the order is illegal and erroneous. The nature of land is khasmahal as apparent from the record of rights and defendant-petitioner is tenant of the Govt. of Bihar, therefore, the State of Bihar is necessary party but I do not find any substance in the submission of the learned counsel for the petitioner on the simple ground that this is a suit for eviction and the plaintiff has to prove its own case that the defendant is his tenant. The question of title cannot be decided in eviction suit rather the relationship of landlord and tenant shall be decided.

Accordingly, this civil miscellaneous petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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