

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20056 of 2013

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Vijay Kumar Son of Late Sitaram Gupta, resident of mohalla- Jurawan Singh,
Darbhanga, P.O.- Darbhanga, P.S.- Darbhanga Town, District- Darbhanga.

.... Petitioner/s

Versus

1. Sri Sitaram Prasad Son of Late Bam Sah, resident of mohalla- Hassan Chak-
Darbhanga, P.O.- Darbhanga, P.S.- Darbhanga Town, District- Darbhanga
2. Srimati Parwati Devi @ Paro Wife of Sri Sitaram Prasad, resident of mohalla-
Hassan Chak-Darbhanga, P.O.- Darbhanga, P.S.- Darbhanga Town, District-
Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh, Adv.
For the Respondent/s : Mr. Sukumar Sinha, Sr. Adv.
Mr. Abinash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 14-03-2018

The defendant of Eviction Suit No. 7 of 2009 has filed this application for quashing the order dated 04.07.2013 passed by the Munsif-I, Darbhanga whereby and whereunder the defendant's petition dated 06.07.2011 for converting this eviction suit into a title suit was rejected and the case was posted for proceeding under section 89 of Code of Civil Procedure.

2. Heard learned counsels for the petitioner as well as the respondents.

3. The respondents claiming to be owner of suit premises on the strength of registered deed of gift and registered sale deed filed the aforesaid eviction suit for eviction of the petitioner on the ground



of personal necessity under section 14 of the Bihar Building (Lease Rent and Eviction) Control Act, 1982. The plaintiff further alleged that the defendant has defaulted in making payment of rent and so they reserved their right to take step separately for arrears of rent. The defendant paid rent to the plaintiffs till May 2007 under Khista rent receipt granted by the plaintiffs but thereafter he left making payment since June 2007. The petitioner-defendant appeared and filed petition denying the relationship of landlord and tenant. The defendant has asserted that he along with his father Sita Ram Gupta is residing in the house since 1968.

4. The court below after hearing both sides, rejected the petition relying on the ruling reported in AIR 2004 SC 1682. The court below held that the plaintiffs have neither claimed any relief for declaration of title in the plaint nor there is any complicated question of title involved in the suit and so the present eviction suit cannot be converted into a regular suit. At the time of argument, both the parties have conceded that the trial has already commenced and after closing the evidence of plaintiffs, the defendant has also examined six witnesses. The suit appears to be at the fag end of trial. The plaintiffs have sought relief for eviction of defendant on the ground of personal necessity. The court below proceeded with the case under the provision of section 14 of the B.B.C. Act. The defendant although



challenged the relationship of landlord and tenant but he is not specific as to how he acquired title and came in possession over the suit premises.

5. In view of above fact, I find that the court below has not committed any error in refusing to convert the eviction suit into a regular suit.

6. This application is devoid of merit and is accordingly, dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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