

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17376 of 2013

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1. Madhya Bihar Gramin Bank, Regional Office, Bhabhua Through Regional Manager, Madhya Bihar Gramin Bank, Bhabhua, P.O. & P.S. Bhabhua District - Kaimur
 2. Regional Manager, Madhya Bihar Gramin Bank, Regional Office, Bhabhua, P.O. & P.S. Bhabhua, District - Kaimur
 3. Branch Manager, Madhya Bihar Gramin Bank, Unwas, P.O. Unwas, P.S. Itarhi, District - Buxar

.... Petitioners

Versus

Binod Kumar Shriastava Son Of Manoranjan Lal Resident Of Village -
Unwas, P.O. Unwas, P.S. Itarhi, District - Buxar

.... Respondent

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Appearance :

For the Petitioners : Mr. Suresh Prasad Singh No.1, Advocate
For the Respondent : Mr. Manendra Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 17-01-2018 This application has been filed to set aside the order dated 28.06.2013 passed by learned Adhoc Additional District Judge-IV, Buxar in Miscellaneous Appeal No.14 of 2012 whereby and whereunder the Miscellaneous Appeal filed by the petitioner was dismissed and the order of Civil Judge, Junior Division was confirmed.

2. The respondent who is owner of the suit premises has filed the eviction suit no.226 of 2012. The plaintiff has asserted that the suit premises were let out to the petitioners (bank) on a monthly rental of Rs.100/- in the year 1981. As per agreement, the defendant tenant agreed to enhance rent to the tune



of double amount every fifth yearly. The respondent/plaintiffs in the year 2011 as per oral agreement gave 1 Katha adjoining land to tenant on monthly rent of Rs.5,000/- for installation of Tower for core banking. The bank has defaulted in making payment of rent with respect to the suit premises as well as the land which was subsequently let out. The plaintiff has sought relief for arrears of rent after due accounting and also for injunction restraining the defendant (bank) from vacating the suit premises without making payment of entire arrears of rent besides cost of the suit.

3. Heard learned counsel for the petitioners as well as the respondent.

4. The relationship of landlord and tenant is not in dispute. It has been submitted that the suit premises is in dilapidated condition and is not fit for banking business and so the defendant under compelling circumstance decided to shift its business to another building for which an agreement has already been executed between the bank and the owner of building. The plaintiff getting knowledge about the agreement between the bank with another owner has filed the suit in order to harass the bank and extort money. The plaintiff has not given any account in the plaint as regards arrears of rent. The bank is remitting monthly rent every month in the account of plaintiff. The plaintiff in order



to keep the litigation pending and restrain the defendant from shifting the bank for indefinite period has maliciously filed the present suit by giving nominal court fee on total value of Rs.125/-. The plaintiff has neither given any accounts nor any agreement in support of tenancy at such rate. The petitioners are ready to pay the decrimal amount if the plaintiff succeeds in proving his case. The learned counsel for the respondent on the other hand submits that the defendants should not be allowed to vacate the suit premises unless they pay the entire arrears of rent after due accounting.

5. From perusal of plaint which is annexed with this application, it appears that the relationship of land-lord or tenant is admitted. The rate of rent as asserted by the plaintiff is disputed by the defendant. The plaintiff has not filed any deed of agreement in support of tenancy and monthly rental. The respondent further has not given any details of account or pleading as to from which date these petitioners have defaulted any making of payment. The suit has been filed only to injunct these petitioners from shifting their bank to any other place. The petitioners are ready to pay the decritical amount if the plaintiff/respondent succeeds in proving his case. The petitioners in such circumstances cannot be restrained from shifting their business only for the reason that the suit is



pending for disposal. The plaintiff has neither prima-facie case nor balance of convenience lies in his favour as the plaintiff would be entitled to arrears of rent in the event of decree to which the defendants are ready to pay. In this view of the matter, the impugned order injuncting the defendants from shifting their business from the suit premises till the disposal of suit is not sustainable.

6. The impugned order dated 28.06.2013 passed by learned Adhoc Additional District Judge-IV, Buxar in Miscellaneous Appeal No.14 of 2012 as well as order dated 02.08.2012 passed by Sub Judge-V, Buxar in Title Suit No.226 of 2012 are set aside and this writ application is allowed.

(Sanjay Kumar, J)

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