

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7907 of 2014

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MRS. SAADAT KAMAL W/O KAMAL HAMID. RESIDENT OF 7/2A,
GOVIND DHAR LANE, P.S. BURRABAZAR, DISTRICT: CALCUTTA -
700001 (WEST BENGAL).

.... Petitioner

Versus

1. SULTAN AHMED S/O LATE ABDUL RAHIM. RESIDENT OF MOHALLA: NEEM LOHAR (CHAUKHANDI), P.O. SASARAM, DISTRICT: ROHTAS (BIHAR).
2. MUSSTT. HAMEEDA BEGUM WIDOW OF LATE TAFFAZUL HUSSAIN RESIDENT OF 'AMJADIA MANZIL', MOHALLA: NEEM LOHAR, P.O & P.S. SASARAM, DISTRICT: ROHTAS (BIHAR).
3. MUSSTT. RAISON NISA WIDOW OF MD. JALIL RESIDENT OF 'AMJADIA MANZIL', MOHALLA : NEEM LOHAR (CHAUKHANDI), P.O. & P.S. SASARAM, DISTRICT :ROHTAS (BIHAR)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL ORDER

4 05-03-2018 This application has been filed to set aside the order dated 16.01.2014 passed by 2nd Additional Munsif, Rohtas at Sasaram in Title Suit No.107 of 1993 whereby the learned Additional Munsif rejected the petition filed by the petitioner/plaintiff and directed the plaintiff no.3 to remain present for her examination as witness.

2. Heard learned counsel for the petitioner and the respondents.

3. The respondents 2nd set filed the aforesaid Title Suit No.107 of 1993 for recovery of possession over the land mentioned in the plaint under Section 6 of the Specific Relief Act



on the allegation that the defendants forcibly dispossessed the plaintiff. The suit property originally belonged to one Sheikh Amjad Ali and Bibi Qadira who died leaving behind three daughters. The petitioner acquired land from the heirs of Sheikh Amjad Ali and Bibi Qadira by virtue of several registered sale deeds and filed a petition for impleading herself as co-plaintiff to the suit. The court below allowed the petition and added this petitioner as co-plaintiff vide order dated 27.02.1997. The defendants appeared and served a copy of written statement on the petitioner. The petitioner being co-plaintiff (as plaintiff no.3) filed a petition on 23.08.1997 under Order 11 Rule 1 of the CPC seeking direction of the Court to direct the defendants to answer the interrogatories and serve the copies of documents mentioned in the written statement. The defendant no.1 in his written statement has averred that the suit originally belonged to Sheikh Amjad Ali and after his death his heirs let out the house and courtyard to the defendants in 1956 and since then he was in possession as tenant. The defendants further averred that he purchased the house along with courtyard from Sk. Kausar Ali on 25.09.1991. The contesting defendants filed rejoinder and the matter remained pending for hearing and lastly, it was dismissed on 25.02.2010 as nobody pressed the petition. The petitioner filed another petition to recall the said order dated 25.02.2010 which after hearing was dismissed



as per impugned order dated 16.01.2014. From the application filed by the petitioner under Order 11 Rule 2 of the CPC which has been annexed as Annexure-1 of this application, it appears that the petitioner has interrogated about the averment made in paras- 7,8, 9, 12 and 12 of the written statement. These interrogatories are virtually cross-examination of the defendants on the statement made in the written statement. The court below as per impugned order which is running into 29 pages has rejected the interrogatories and directed the plaintiff to remain present for her evidence. The plaintiff has to succeed on the strength of his own pleading and evidence. Such type of interrogatories are beyond the scope of Order 11 Rule 2. The court below considering the interrogatories irrelevant and not material at the stage of evidence has rightly rejected the same.

4. In view of the above, I do not find any jurisdictional error in rejecting the petition of the petitioner. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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