

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5917 of 2014

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1. Sri Pranay Sadhu Khan S/O Late Sushanta Sadhu Khan Resident Of
Bhatta Bazar, P.S.- Khajanchi Hat, District- Purnia.

.... Petitioner

Versus

1. Sri Sachchidanand Prasad Sinha S/O Ram Chandra Prasad Permanent
Resident Of Raipur Koyal Bigha, Via- Asta, P.S.- Tharthari, District-
Nalanda, At Present Resident Of Gangulipara, Bhatta Bazar, P.S.-
Khajanchi Hat, District- Purnia.
2. Sri Dilip Kumar Gupta S/O Sri Ram Chandra Gupta By Caste-Hindu, By
Profession-Business, Resident Of Mahboob Khan Tola, Purnea, P.S.-
Khazanchi Hat, District- Purnia.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Karn, Advocate
For the Respondent/s : Mr. Vidya Sagar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 31-01-2018 The petitioner before this court is plaintiff of Eviction
Suit No.11 of 2000 pending in the Court of 2nd Additional Munsif,
Purnea. He has filed this application for quashing the order dated
25.11.2013 whereby and whereunder the petition of the petitioner
for striking off the defence of respondents was rejected.

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

3. The petitioner (plaintiff) filed a petition before the
trial court on 05.12.2007 under Section 15 of the Bihar Building
(Lease, Rent and Eviction) Control Act, 1982 praying therein to
deposit the arrears of rent as well as current rent at the rate of



Rs.936/- per month from 01.01.2000 till the date of filing of petition. The said petition was allowed on 28.07.2008 and the defendants deposited the rent. The plaintiff filed a petition on 26.07.2013 to strike off the defence of tenant as the defendants failed to deposit rent for the month of July 2009, September 2009, November 2009, January 2010, February 2010, September, 2011, October 2011 and May 2013 in time. The defendants further defaulted in making payment of rent for the month of August 2011. The court below as per the impugned order rejected the petition holding that the defendants deposited the amount through chalan as per direction of the Court. Some of the payments were made after some delay for administrative reason. The court below relying on ruling reported in 1999 (3) P.L.J.R. 205 has rejected the petition of the plaintiff. In this regard, the learned counsel for the respondents cited ruling reported in A.I.R. 1989 Supreme Court 291 wherein the Hon'ble Apex Court has observed that the provision under the Act regarding striking off the defence cannot be taken to be mandatory provision of law. The court should consider whether the delay in depositing of rent has been reasonably explained or not. In the impugned order I find that court below has accepted the explanation of the respondents (tenants) and condoned the delay in depositing the rent by the



defendant.

4. In view of above ruling and proposition of law the court below has rightly condoned the delay in depositing the rent of one month by respondents (tenants). The court below has not committed any jurisdictional error in refusing to strike off the defence of the respondents. This writ application is devoid of merit and is accordingly dismissed.

Harish/-

(Sanjay Kumar, J)

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