

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15863 of 2010

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1. Runi Kumari All Sons and daughter of late Ramjee Ram All are resident of Mohalla-Alamganj, Pulpar, P.S Laheri, District Nalanda.
 2. Sushila Devi
 3. Laxmi Ram
 4. Munni Ram
 5. Biru Ram
 6. Jitendra Kumar

.... Petitioners

Versus

1. Manju Devi
2. Baby Devi
3. Veena Devi
4. Manoj Ram
5. Pintu Ram
6. Kapil Ram
7. Mina Devi, all sons and daughter of Late Rajendra Ram, all are resident of Mohalla-Alamganj, PULpar, P.S. Bihar Sharif, District-Nalanda.

.... Respondents

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Appearance :

For the Petitioners : Mr. Sudhir Kumar, Advocate
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

6 26-02-2018 This application has been filed for setting aside the order dated 19.08.2010 passed by the learned Munsif, Bihar Sharif, Nalanda in Eviction Suit No.09 of 2003 whereby and whereunder the petition filed by petitioners (plaintiffs) under Section 15 of the Bihar Building Control Act has been rejected.

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

3. The original plaintiff Ramjeet Ram and defendant Rajendra Ram @ Rajendra Prasad were full brothers and both of



them died during the pendency of this writ application. The petitioners and respondents are their legal heirs. The ancestors of petitioners filed eviction suit against the ancestor of defendants. It appears that the ancestors of defendants, namely, Rajendra Ram @ Rajendra Prasad filed Title Suit No.162 of 2002 before the learned Sub Judge-Ist, Biharsharif for declaration of his title claiming half share in the joint family property. The said suit was decreed on contest and the sale deed dated 27.09.1967 executed by the ancestor of present respondents in favour of the ancestor of petitioners was declared forged, fabricated inoperative and void ab initio. The father of present petitioners filed Title Appeal No.53 of 2005 before the District Judge, Nalanda which after hearing was allowed by learned Ist Additional District Judge on 12.03.2008. After institution of suit by the father of respondent Ist set, the father of these petitioners filed Eviction Suit No.09 of 2003 on the ground of default in payment of rent. The plaintiff claimed arrears of rent since May, 2000 at the rate of Rs.400/- per month. The petitioners filed petition under Section 15 of the Bihar Building Control act for a direction to the defendant to pay arrears of rent as well as current rent. The learned court below considering the dispute as regards title between the parties and also lack of relationship of landlord and tenant rejected the



petition. The court below while rejecting the petition has observed that it would not be proper to direct the defendants to make payment of rent without adjudicating the relationship of land lord and tenant. Thus, the court below has not committed any illegality in refusing to direct the defendants for making payment of rent on account of title dispute between the brothers and also lack of relationship of land lord and tenant between them.

4. In view of above, I do not find any merit in this application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

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