

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2409 of 2014

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Sanjay Kumar Singh @ Sanjay Singh Son of Vishwa Mohan Prasad Singh,
Resident At Power House Chowk Road, Machharhatta Begusarai Ward No. 9/31,
Shivam Market, P. Town Sub Division and District- Begusarai

.... Petitioner/s

Versus

Vikrant Kumar Son of Late Mannu Dhai Patel, resident of mohalla- Gandhi Nagar,
Ward No. 9/31, P.S. Town, District- Begusarai. At Present Shopkeeper In Shivam
Market Power House Road, P.S.- Town

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-10-2018

Petitioner before this Court is plaintiff in Title
Eviction Suit No. 5 of 2011 pending in the court of Munsif-I,
Begusarai. He has filed this writ application for quashing the
order dated 03.10.2013 whereby and whereunder his petition
filed under section 15 of the B.B.C. Act was partially allowed.

2. Heard learned counsels for the petitioner as well
as the respondents and perused the record.

3. It appears that in course of trial, the petitioner
claiming to be landlord filed the aforesaid title eviction suit
against the defendant for his eviction on the ground of personal
necessity. He filed a petition on 17.04.2012 under section 15 of



the B.B.C. Act for a direction to the defendant to make payment of arrears of rent as well as current rent till the disposal of the suit at the admitted rate of Rs.1,800/-per month. The respondent, who is tenant in the suit premises, filed rejoinder denying the relationship of landlord and tenant and also last paid rent. The court below after hearing both sides directed the respondent to make payment of Rs.1,200/-per month till the disposal of the suit and further directed that no person would withdraw the said amount deposited in the court till decision as regards entitlement to receive the said amount.

4. The learned counsel submitted that the respondent is tenant of the petitioner and he was paying rent at the rate of Rs.1,800/-per month is not in dispute. The petitioner at para 2 of his plaint has stated that he is landlord of the shop mentioned in schedule-I of the plaint. The defendant in his reply at para 9 of the written statement has admitted this fact in clear word. The petitioner further at para 11 of the plaint has stated that the oral tenancy was renewed and rent was enhanced from time to time and the defendant-tenant was paying monthly rent of Rs.1,800/- with effect from 1st February 2011. The respondent at



para 16 has admitted the statement of plaintiff-petitioner. Besides that the respondent along with other tenants filed a Rent Control Case No. 3 of 2011 (fair rent) before the Sub-Divisional Officer-cum-Rent Controller, Begusarai and the respondent at para 'Gha' of said application has stated that the rent of suit premises was enhanced from Rs.1,200/- to Rs.1,800/-. These facts were urged before the court below by the petitioner, but the same were not considered. The respondent had not disputed the said fact before the court below.

5. Thus, I find that the court below has overlooked the admitted documents and averment made in the pleadings of both the parties. The observation of the court below as regards relationship of landlord and tenant between the parties and about the rate of rent is against the material on record.

6. In view of above discussions I find that the impugned order is not sustainable and is accordingly set aside. The matter is remitted to the court below with a direction to pass order after hearing both sides and going through those documents. I further find and observe that the petitioner who is admittedly landlord of the said suit premises is entitled to receive



the amount of rent which has been deposited by the tenant before
the court below.

This writ application is accordingly allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15/10/2018
Transmission Date	N/A

