

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.364 of 2015

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1. Rajendra Prasad
 2. Mahendra Prasad
 3. Ashok Kumar
 4. Shailendra Kumar Kashyap alias Nandu
 5. Amit Kumar Kashyap alias Papu

All are sons of Late Sheo Narayan Prasad, Resident of Mo.- Khilanganj, At and
PO - Sasaram, District- Rohtas. Petitioner/s

Versus

Krishna Singh Son of Late Manik Chand Singh, resident of village and PO- Penar,
PS- Nokha District Rohtas at present R/o Muhalla- Kabirganj, Proprietor- New
Sangam Raj Jewellers and Vastralaya, Shivam Complex, Dharamshala Road, At
& PO & PS- Sasaram, District- Rohtas. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajarangi Lal

For the Respondent/s : Ms. Sudama Singh and Arun Kr. Singh, Advs.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-09-2018

Petitioners before this Court being landlords of the suit premises filed an eviction suit bearing No. 5 of 2009 against the sole defendant for his eviction on the ground of default in making payment of rent and their personal necessity. In course of trial, the petitioners filed an application for a direction to the defendant to pay arrears of rent from March 2009 to May 2011 and also for current rent. The matter was heard and the said petition was disposed of on 27.07.2011 directing the defendant to deposit arrears of rent from March 2009 to May 2011 and also current rent from June 2011 before the court below. The respondent-defendant filed C.W.J.C. No. 14346 of 2011 before this Court which was heard and disposed of as per order dated



02.09.2011. This Court directed the defendant to deposit the current rent and stayed the matter as regards deposit of arrears of rent. The respondent accordingly deposited the current rent. The petitioners filed a petition on 13.12.2011 before the court below praying therein to permit them to withdraw the rent which has been deposited by the respondent in court nazarat. The court below after hearing both the parties refused the prayer of the petitioners observing that this Court had directed the respondent to deposit the current rent before the court below and there was no direction as regards withdrawal by the petitioners.

2. After hearing both sides and perusing the documents on record, I find that the relationship of landlord and tenant is admitted one. The defendant has deposited the current rent in court below which admittedly was/is payable to the petitioners-landlords and so the petitioners are entitled to withdraw the rent deposited by respondent.

3. In view of above facts, the impugned order refusing to permit the petitioners to withdraw the said amount is set aside and this writ application is allowed.

Mahesh/-

(Sanjay Kumar, J)

AFR/NAFR	NAFR
CAV DATE	N/A
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