

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11878 of 2015

1. Manoj Kumar
2. Pranay Prabhakar Both sons of Sri Ram Nandan Prasad Both residents of Bindhyawasani Market, Mohalla -Garhpar, P.s Bihar, District Nalanda at Biharsharif(Bihar.)

... .. Petitioner/s

Versus

Bhagwat Prasad Son of late Dukhi Prasad Resident of Mohalla- Nei Sarai, Bhadani Gali, P.s Bihar, District Nalanda at Biharsharif (Bihar)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Nath Jha, Advocate
For the Respondent/s	:	Mr. Pramod Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 19-12-2018

Petitioner before this Court is plaintiffs of Eviction Suit No.02 of 2008 pending in the Court of Additional Munsif-VIII, Biharsharif. They have filed this application for quashing the order dated 22.06.2015 whereby and whereunder their petition filed under Section 15 of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982 for a direction to the defendant to pay arrears of rent and current rent was rejected.

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

3. The petitioners filed the aforesaid eviction suit against the defendant for his eviction. During the pendency of the suit, they filed a petition under Section 15 of the BBC Act. According to the petitioners they purchased eight shop rooms from Maya Devi. The said Maya Devi was owner of the suit premises



on the basis of registered deed of gift dated 24.01.1994 which was executed by her mother-in-law Sumitra Devi. The mother-in-law had purchased the suit premises from Nazrul Wari. The defendant has admitted that initially he was tenant of Nazrul Wari. The defendant claims that Sachidanand Prasad who is full brother of the husband of plaintiff has executed sale deed dated 31.10.2007 in favour of his sons. The learned court below rejected the prayer of the plaintiffs observing that the liability of the tenant to pay arrears of rent and current rent will be considered at the time of final disposal of the suit. In this regard, the learned counsel referred the provision of Section 15(2) of the Bihar Building (L.R. & E.) Control Act which runs as follows:-

Section 15(2)

“If in any proceeding referred to in sub-section (1) there is any dispute as to the person or persons to whom the rent is payable the Court may direct the tenant to deposit in Court the amount payable by him under sub-section (1) and in such case no person shall be entitled to withdraw the amount in deposit until the Court decides the dispute and makes an order for payment of the same.”

4. The above provision is quite explicit which provides that in the event of any dispute as to the person or the persons to whom the rent is payable, the Court may direct the tenant to deposit in Court the amount payable by him under sub-section-1 of Section 15 the BBC Act. The person shall be entitled to withdraw the amount in deposit only after decision of dispute as regards



entitlement of rent. The defendant has admitted that he was tenant of Nazrul Wari who transferred his interest in favour of Sumitra Devi. The said Sumitra Devi executed deed of gift in favour of Maya Devi from whom the petitioners have purchased the land. The defendant or his sons who claim title on the basis of the sale deed has/have not challenged the deed of gift.

5. In view of admitted case of defendant that he was tenant of Nazrul Wari, the court below ought to have exercised discretion directing the defendant to pay arrears of rent under the provision of Section 15(2) of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982.

6. In view of above fact, the impugned order rejecting the petition of the petitioner is set aside and this writ application is allowed. The respondent/defendant is directed to make payment of arrears of rent as well as current rent which will be subject matter of decision of the eviction suit.

7. This writ application is accordingly allowed.

B.Kr./-

(Sanjay Kumar, J)

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

