

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1671 of 2017

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1. Sunil Kumar @ Pappu, Son of Late Uma Shankar Prasad Sinha,
Resident of Mohalla- Juran Chhapra Road No. 3, Main Road, P.S.-
Brahampura, District- Muzaffarpur.

.... Petitioner/s

Versus

1. Dr. Raj Mangal Prasad, Son of Late Dwarika Prasad,
2. M/S Raj Clinic through its proprietor namely Dr. Raj Mangal Prasad.
Both R/o Mohalla- Juran Chhapra Road no. 3, P.S.- Brahampura, District-
Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Hari Kishore Thakur

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 09-10-2018 Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 04.08.2017 passed by Munsif, East Muzaffarpur in Eviction Suit No.13 of 2016 by which the learned Munsif granted leave to the defendant-respondent to contest the suit.

Learned counsel for the petitioner submits that defendant appeared after having received the notice on 30.01.2017 but the defendant did not file petition on affidavit for grant of leave to contest the suit. On the next date, the defendant filed the petition, therefore, the provision says that the defendant after appearance shall seek leave to contest the case and if the defendant filed the



petition to contest the suit, on first date, the defendant shall be precluded from filing the petition for the grant of leave to contest the suit. It is further submitted that the defendant has not stated any specific reason for grant of leave to contest the suit but from perusal of the order itself, it appears that the learned Munsif considered the petition of the defendant and granted leave to contest the suit. The defendant stated that the plaintiff himself has good practice and he does not require the land for his personal necessity. The plaintiff earlier filed the suit on the ground of personal necessity but the suit was withdrawn or disposed of on the assertions of the plaintiff himself that he does not require the suit premises for his personal necessity.

Having considered the facts aforesaid, I find that the learned Munsif has rightly granted leave to the defendant to contest the suit. Accordingly, I do not find any merit in this civil miscellaneous petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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