

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.838 of 2017

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1. Arun Kumar Gupta, Son of Satya Narayan Prasad Gupta, Resident of Mohalla- Hathsarganj, P.S.- Hajipur Town, District- Vaishali.

.... Appellant/s

Versus

1. Lakhan Prasad, Son of Govardhan Prasad, Resident of Noon Gola, P.S.- Hajipur Town, District- Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

2 23-07-2018 Heard Shri Surendra Kishore Thakur, learned
counsel appearing on behalf of the petitioner.

The petitioner is aggrieved by the order dated 09.02.2017 passed in Eviction Suit No. 09 of 2015 by Munsif-I, Vaishali at Hajipur whereby the learned Munsif allowed the defendant to contest the suit.

The petitioner is the plaintiff. Petitioner filled Eviction Suit No. 09 of 2015 for evection of the suit premises on the ground of personal necessity. The defendant filed written statement stating that he is not the tenant of the suit premises and there is no relationship of landlord and tenant between the plaintiff and the defendant. The defendant stated that on 18.05.2016 he filed written statement and stated the entire facts that the rent



receipts and signature there on filed by the plaintiff are forged and fabricated but the learned Court below asked him to file petition to contest the suit and in pursuance thereof he filed petition to allow him to contest the suit. On such petition of the defendant, the learned Court below allowed the defendant to contest the suit by the impugned order.

The learned counsel for the petitioner submits that in view of the provision as contained in Sub-Section 5 of Section 14 of Bihar Building (Lease, Rent, Eviction) Control Act, 1982 if the defendant/tenant files an affidavit disclosing such facts as would disentitle the landlord from obtaining an order for eviction on the grounds specified in clause (c) and (e) of Sub-Section (1) of Section 11 the Court shall grant him leave to contest the suit but the defendant did not state such facts disentitling the plaintiff from seeking relief under section (c) and (e) of Sub-Section 1 of Section 11. The defendant admitted that he has already evicted the suit premises on 24.12.2001 but the plaintiff did not find the same admission sufficient and chooses to continue with the suit. On such the Court below asked the defendant to file petition for contesting the suit and, therefore, the learned Court below has illegally granted the leave to contest the suit.

I do not find any force in the submission of the



learned counsel for the petitioner and the same is not acceptable on the simple ground that the defendant has already stated in his written statement that he vacated the suit premises on 24.12.2001 itself. The plaintiff still chooses to continue with the suit for eviction and on such the Court asked the defendant to file petition seeking relief to contest the suit and the petition filed by the defendant was allowed to contest the suit. It is apparent that even after admission of the defendant that he vacated the suit premises, the plaintiff on his own, nevertheless the admission of the defendant, continued to pursue the suit, in that event I find that the learned Court below has rightly allowed the defendant to contest the suit. Thus, I do not find any illegality or jurisdictional error in the impugned order. Accordingly, this Civil Misc. petition is dismissed.

(Prabhat Kumar Jha, J)

BKS/Rajan

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