

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16582 of 2013

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1. Pradip Karamkar son of Kali Pado Karamkar, Resident of Bhatta Bazar, P.S. K. Hat, P.O. and District – Purnea.
 2. Samir Karamkar son of Kali Pado Karamkar, Resident of Bhatta Bazar, P.S. K. Hat, P.O. and District – Purnea.
 3. Ashok Karamkar son of Prahlad Karamkar, Resident of Bhatta Bazar, P.S. K. Hat, P.O. and District – Purnea.
 4. Shanti Ranjan Ray son of Jogendra Roy, Resident of Bhatta Bazar, P.S. K. Hat, P.O. and District – Purnea.

.... Petitioners

Versus

1. B.S.S.R.Union Rest House, through its President, Near Ragini Chowk, P.S. K. Hat, P.O. and District – Purnea.
2. Sri L.N.Chakraborty, President, B.S.S.R., Union 1/E, Rajendra Nagar, Patna.
3. Sri Deepak Bhattacharjee, General Secretary, B.S.S.R., Union 1/E, Rajendra Nagar, Patna.
4. The State of Bihar through Collector, Purnea.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh, Advocate
For the Respondent/s : Mr. Rajeeva Roy, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

13 16-01-2018 This writ application has been filed to set aside the order dated 12.06.2013 passed by learned Additional District Judge (F.T.C.-5), Purnea in Eviction Appeal No.03 of 2010 whereby and whereunder the intervener petition filed by the respondent no.4 (State of Bihar) was allowed.

2. Heard learned counsel for the petitioners as well as the respondents.

3. It appears that the petitioners claiming to be landlord of the suit premises filed Eviction Suit No.02 of 2004 against the



tenants, who are respondent nos.1 to 3 of this writ application. The suit was decreed against which the respondent nos.1 to 3 filed Eviction Appeal No.03 of 2010. The said appeal is pending before the lower appellate court where the State of Bihar filed a petition under Order I Rule 10 of C.P.C. on 13.02.2013, which as per impugned order was allowed.

4. The learned counsel for the petitioners submits that the State of Bihar has no concern with the suit premises. He further submits that the land over which the suit premises is standing was purchased by the petitioners from the ex-landlord. It was let out to the defendants on monthly rent at the rate of Rs.12,000/- per month. The defendants defaulted in making payment of rent and so the suit was filed for their eviction. The State of Bihar filed Title Suit No.363 of 1997 for declaration of their right and title against the defendants. The suit was dismissed on contest as per judgment dated 22.07.2001. The State of Bihar filed Title Appeal No.48 of 2005 before the District Judge. The said appeal was dismissed for default on 04.03.2008 on account of non-prosecution. The State of Bihar filed a Miscellaneous Case No.88 of 2008 for restoration/re-admission of said appeal. The said miscellaneous case was also dismissed on 03.06.2011 in default. The State of Bihar then filed another



Miscellaneous Case No.29 of 2012 for restoration of Miscellaneous Case No.88 of 2008, which is presently pending in the Court of District Judge, Purnea. The State of Bihar had filed interlocutory application for being impleaded as party to the suit. The copy of said petition was not served on the petitioners and without hearing the petitioners the same was allowed.

5. The learned counsel for the respondents-tenants opposed the submission.

6. On going through the submissions of both the parties and the documents available on record, I find that the Eviction Appeal No.03 of 2010 has been filed by the tenants-respondent nos.1 to 3 against the decree passed in favour of petitioners. The said appeal has to be determined on the basis of relationship of landlord and tenant and default by appellant in payment of rent. The State of Bihar had filed Title Suit No.363 of 1997, which was decided against the State of Bihar. The State of Bihar is absolutely not a necessary party to the eviction appeal. The State of Bihar is not prejudiced in any way in view of the fact that even in the event of decree in Title Appeal No.48 of 2005 the State of Bihar would be entitled to recovery of possession. It further appears that the intervener petition was pressed by the State of Bihar and it was allowed only for the reason that the tenants did



not oppose the prayer. The main contest in eviction appeal is between the petitioners-landlord and tenants-respondents and so the court below has committed error in impleading the State of Bihar as party to the appeal.

7. In view of above discussions, the impugned order impleading the State of Bihar as party to the appeal is set aside.

8. This writ application is, accordingly, allowed.

(Sanjay Kumar, J)

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