

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.287 of 2017

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1. Suresh Kumar Verma Son of Late Durga Prasad Verma, Resident of Mohalla-Bekapur, Ward No.-27 (New) 11 (Old), P.O.-Munger, Police Station-Kotwali, District-Munger (Defendant).

.... Petitioner/s

Versus

1. Smt. Sulochana Devi Wife of Sri Kailash Prasad Verma.
2. Kailash Prasad Verma Son of Late Devi Prasad Verma, Resident of Mohalla-Bekapur, Under Munger Nagar Nigam, Ward no. 27 (New) 11 (Old), P.S.-Kotwali, P.O.-Munger, District-Munger

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar Tiwary

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 28-08-2018

Heard both sides.

Petitioner who is the plaintiff filed this Civil Misc. petition against the order dated 15.09.2016 passed in Eviction Suit No.03 of 2016 by which the petition of the petitioner filed under Section 15 of the B.B.C. Act has been dismissed.

The learned counsel for the petitioner submits that while dismissing the petition filed under Section 15 of the B.B.C. Act, the Court observed that the plaintiff has to prove his title before seeking relief of eviction of the defendant from the suit premises and directed the plaintiff to convert the Eviction Suit into Title Suit and till then the further proceeding of the Eviction Suit has been stayed.



I find that the learned Munsif-II has committed error. If the plaintiff has filed the suit for eviction, the suit shall be decided on its own merit on the basis of the existence of relationship of landlord and tenant between the plaintiff and the defendant. If the plaintiff fails to prove the relationship of the landlord and the tenant, the suit shall be dismissed but the Court can not compel the plaintiff to convert the Eviction Suit into Title Suit and till the conversion into Title Suit, the stay of further proceeding of the Eviction Suit is illegal.

Accordingly, the order dated 15.09.2016 to the extent by which the direction was given to the plaintiff to convert Eviction Suit into Title Suit and stay of the Eviction Suit is set aside. The learned Munsif is directed to proceed further with the Eviction Suit on its own merit and decide the same in accordance with law.

Accordingly, this Civil Misc. petition is allowed to the extent aforesaid.

(Prabhat Kumar Jha, J)

Saurabh/Rajan

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