

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.98 of 2018

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M/s Gautam Budha Hospital & Institute Pvt Ltd, Kachahari Road, PO & Town Bihar Sharif, P.S. Bihar, District-Nalanda, through its Managing Director, Pankaj Kumar Sinha @ Pankaj Singh, Son of late Gauri Shankar Sinha, R/O Village + PO- Murhari, P.S. Harnaut, Presently reside at Gautam Budha Hospital upper floor, Kachahari Road, Bihar Sharif, District-Nalanda.

... .. Appellant/s

Versus

Smt. Shanti Sinha wife of Dr. Indrajeet Prasad Sinha, C/O Clink, Ranchi-Road, PO & Town-Bihar Sharif, P.S.- Laheri, District-Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	None
For the Respondent/s	:	Mr. Pramod Kumar Singh Mr. Satish Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 26-04-2018 On a motion for urgent hearing, this second appeal has been listed for hearing under Order 41 Rule 11 of the Code of Civil Procedure, 1908, on priority basis.

2. The appellant is aggrieved by judgment and order dated 06.02.2018, passed by learned 3rd Additional District Judge, Bihar Sharif, Nalanda in Eviction Appeal No. 01 of 2016, whereby the judgment and decree, dated 20.02.2016, passed by learned Sub Judge-II, Bihar Sharif, Nalanda in Eviction Suit No. 01 of 2006, has been confirmed.

3. The trial Court decreed the eviction suit in favour of the plaintiff/respondent by the said judgment and decree dated 20.02.2016, passed in Eviction Suit No. 01 of 2006 on



two counts, namely, (i) the respondent was in personal necessity for occupation of the suit premises and (ii) the appellant had defaulted in making payment of rent.

4. It transpires from the judgments of the Courts below that altogether ten issues were framed including the question of existence of relationship of landlord and tenant between the appellant and the respondent and whether the respondent was reasonably and in good faith required the occupation of the suit building for his personal use. Another issue as to whether the appellant had defaulted in making payment of rent was also framed. Issue of partial eviction was also framed as one of the issues by the trial Court. There is conclusive finding based upon consideration of rival pleadings of the parties and the evidence adduced on their behalf that there existed relationship of landlord and tenant and that the respondent required reasonably and in good faith the occupation of the said premises for her own use. The trial Court also recorded a finding that the appellant was defaulter in making payment of rent. These findings have been concurred by the learned appellate Court.

5. It is the case of the appellant that in the eviction suit one Dr. Rajeshwari Prasad Singh was shown as Director of



M/s Gautam Budha Hospital & Research Institute Pvt. Ltd (the appellant) knowing well that the said Hospital was being run by its Managing Director, Pankaj Kumar Sinha through whom the present second appeal has been filed. From the grounds which have been taken in the present second appeal, it is evident that it is not the case of the appellant that the concurrent finding recorded by the Courts below are perverse, nor it is the case of the appellant that the person with whom the agreement of tenancy was entered into was not party to the suit. The memo of appeal does not contain the substantial question of law, which according to the appellant, this second appeal involves.

6. Learned counsel appearing on behalf of the respondent has relied on Supreme Court's decision in case of ***Suresh Kumar Vs. Anil Kakaria (AIR 2017 SCW 5239)*** to submit that findings recorded by the Courts which are concurrent and based on appreciation of evidence undertaken by the Courts below are binding in nature in the absence of any ground taken that such findings suffer from perversity. I find substance in the submission made on behalf of the respondent. It is the not the case of the appellant that the findings recorded by the Courts below are without any evidence or contrary to evidence adduced at the trial. The findings of fact, in such view



of the matter, is certainly binding on this Court. Paragraphs 14 and 15 of the Supreme Court's decision in case of ***Suresh Kumar Vs. Anil Kakaria*** (supra) reads thus:-

“14. In our considered opinion, the findings recorded by the three Courts on facts, which are based on appreciation of evidence undertaken by the three Courts, are essentially in the nature of concurrent findings of fact and, therefore, such findings are binding on this Court. Indeed, such findings were equally binding on the High Court while hearing the second appeal and it was rightly held by the High Court also.

15. It is more so when these findings were neither found to be perverse to the extent that no judicial person could ever record such findings nor these findings were found to be against the evidence, nor against the pleadings and lastly, nor against any provision of law.”

7. In view of the settled law, which has been consistently followed by the Courts including the law laid down by the Supreme Court in case of ***Suresh Kumar Vs. Anil Kakaria*** (supra), I do not find any merit in this second appeal, which does not deserve admission.

8. The second appeal is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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