

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1351 of 2016

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1. Shailendra Choudhary son of Sri Dr. Kiran Shankar Prasad Choudhary
resident of Mohalla Gopalji Lane, Saraiyaganj, P.S. and District-
Muzaffarpur. Appellant/s

Versus

1. Ravi Ranjan Jaiswal son of Late Dinesh Chandra Prasad resident of
Mohalla, P.O. & P.S.- Ghora Sahan, District- East Champaran, present
address M/s Lazeez Restaurant and Lagan Banquet Hall, Yogendra
Mukherjee Road, Saraiyaganj, P.S.- Town and District- Muzaffarpur.

.. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ramesh Kumar Agrawal

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

5 17-09-2018 Heard the learned counsel for the petitioner. Nobody
appears on behalf of sole respondent.

The petitioner has filed this Civil Misc. petition
against the order dated 02.05.2016 passed by Sub Judge-I,
Muzaffarpur in Eviction Suit No. 27 of 2014 by which the court
directed the respondent to pay Rs. 24,500/- monthly rent from the
month of May, 2016 and current rent from June, 2016. With
regard to arrears of rent the court ordered that the same shall be
decided at the time of final hearing of the suit.

The learned counsel for the petitioner submits that
Section 15 (1) of Bihar Buildings (Lease, Rent and Eviction)
Control Act, 1982 (hereinafter referred to as the Act) vests power
in the court to order for payment of current rent as well as arrears
of rent subject to the law of Limitation but the court did not pass
any order and deferred the order on payment of arrears of rent to
be passed at the time of final hearing of the suit. It is further
submitted that a Full Bench of this court in the case of *Priyavarte
Mehta v. Amrendu Banerjee* reported in *1996 (1) PLJR 732* has
held that when the tenant contests the eviction suit filed by the



landlord, the landlord can then file an application under Section 15 of the Act for issue of direction by the court to tenant asking him to deposit arrears of rent subject to the law of limitation. Section 15 applies to eviction suit filed on any ground for eviction contemplated under Section 11 of the Act and Section 15 of the Act empowers the court to give direction for depositing arrears of rent pertaining to period prior to institution of suit if not otherwise barred by limitation.

Having considered the submission and on perusal of the order, I find that the suit was instituted on 12.12.2014. The petitioner filed petition under Section 15 of the Act for direction to the respondent/tenant for payment of arrears of rent as well as current rent. Section 15 of the Act vests power in the court to direct the tenant to pay current rent as well as arrears of rent for the period prior to institution of the suit provided the same is not barred by law of limitation but the court has directed the tenant to pay the current rent since May, 2016 only. Therefore, I find that the learned Sub Judge as committed jurisdictional error by not passing order on the payment of arrears of rent as well as rent after institution of the suit. Accordingly, that part of order which keeps the claim of the petitioner for payment of arrears of rent prior to institution of the suit and till May, 2016 pending is set aside and the learned Sub Judge is directed to pass order afresh in accordance with law within two months from the date of receipt of this order after hearing both the parties. Accordingly, this Civil Misc. petition is allowed.

(Prabhat Kumar Jha, J)

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