

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2187 of 2017

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1. Sri Sushant Paul, Son of Late Haro Hari Paul @ Amarpaul @ Haro Paul,
Resident of Naya Bazar, At, P.O. & P.S.-Lakhisarai, District-Lakhisarai.

.... Petitioner/s

Versus

1. Sri Madan Mohan Prasad @ Ramanand Prasad Singh, Son of Shri Deo
Sharan Singh, Resident of Naya Bazar, At, P.O. & P.S.-Lakhisarai, District-
Lakhisarai.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. P.N.Shahi, Sr. Advocate
Mr. Arun Kumar Arun, Advocate
Mr. Manish Kumar, Advocate
Mr. Anuraj Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 30-08-2018 Heard both sides.

The petitioner filed this civil miscellaneous petition against the order dated 20.04.2017 passed in Eviction Case No.3 of 2012 by which the counter-claim of the petitioner filed under Order VIII Rule 6A of the Code of Civil Procedure has been dismissed.

Petitioner is the defendant. The plaintiff filed the suit for eviction on the ground of personal necessity but during the pendency of the suit, petitioner filed counter-claim claiming to be the owner of the land but the learned Sub Judge II, Lakhisarai dismissed the petition of the petitioner that in a suit for eviction,



the counter-claim of the defendant for declaration of title cannot be entertained.

Learned counsel for the petitioner submits that the counter-claim of the petitioner should have been decided along with other issues of the suit. There is no relationship of landlord and tenant between two sides. The plaintiff himself admitted that he purchased the land in the year 1980 although the defendant has been coming in possession over the land for last 109 years.

On the other hand, Mr. P.N.Shahi, learned senior counsel for the respondent submits that this issue has already been set at rest by a Single Bench judgment of this court reported in 2003(2) PLJR 254(Md. Nooruddin v. Sri Rabindra Kumar Sinha) in which it has been held that counter-claim cannot be entertained by a Court in a suit for eviction summarily tried under Section 14 of the B.B.C. Act.

Having considered the facts that admittedly the suit is for eviction on the ground of personal necessity and the petitioner being defendant filed counter-claim. This has already been held by a Bench of this Court in the case of Md. Nooruddin(supra)that in a suit for eviction on the ground of personal necessity summarily tried under Section 14 of the B.B.C. Act, the Court cannot entertain counter-claim of the defendant to decide the title. In a



suit for eviction, the full-fledged question of title cannot be looked into. Only issue to be decided whether there is relationship of landlord and tenant.

Therefore, I do not find any error in the impugned order.
Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

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