

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.8 of 2018

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1. Ravi Prakash @ Ravi Chopra son of Late Baldev Prasad Chopra resident of Rajgopal Sarkar Lane (Mahanth Narayan Das Lane), Naya Bazar, P.S. Kotwali, District Bhagalpur.

.... Petitioner/s

Versus

1. Ashok Kumar Jivrajka son of late Shankar Lal Jivrajka resident of Sujaganj, Post Sujaganj, P.S. Kotwali, District Bhagalpur impleaded in the capacity of Secretary Tormal Dilsukh Rai Trust Dharmshala, Laheritola, Ramdasgupta Path, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bimlendu Mishra

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 19-09-2018 Heard Mr. Bimlendu Mishra, learned counsel appearing on behalf of the petitioner and the learned counsel for the plaintiff-opposite party.

The petitioner has filed this civil revision petition against the order dated 28.11.2017 passed in Title Eviction Suit No.18 of 2016 by Munsif II, Sadar, Bhagalpur.

The plaintiff-opposite party No.1 filed the eviction suit for eviction of the suit premises under Section 11(i)(c) read with Section 14 of the Bihar Building(Lease, Rent & Eviction) Control Act on the ground of personal necessity. The petitioner appeared and filed written statement. During the hearing of the case after settlement of the issues, the petitioner filed petition that the suit is not maintainable in view of the fact that the trustee-plaintiff has not obtained permission from the Bihar Religious Trust Board as



required under Section 28(2)(J) of the Bihar Religious Trust Act for conversion of the use of the trust property from Dharmshala to Hospital, therefore, this issue should be settled as preliminary issue but the learned Munsif rejected the petition by the impugned order. Being aggrieved, the petitioner filed this present civil revision petition.

Mr. Bimlendu Mishra, learned counsel for the petitioner submits that the plaintiff is a trustee. The plaintiff was running and managing the Dharmshala standing on the suit premises. There are many shops and out of which the petitioner is one of the tenants of the shop. It is submitted that there is a statutory requirement that for conversion of the use of the land, the trustee or the Secretary of the trust shall get permission and approval from the Chairman of the Bihar Religious Trust Board and this issue goes to the root of the suit. Learned Munsif has committed illegality and jurisdictional error in dismissing the petition of the petitioner.

On the other hand, learned counsel for the opposite party submits that suit premises is a big chunk of land and one part of it, there is a Dharmshala. The trustee/the Secretary of the trustee intends to construct Hospital on other part of the suit premises and, therefore, the shops are required to be removed on the ground of better use of the trust property.

From the submission of both sides and on perusal of the



impugned order, I find that on the petition filed by the petitioner, learned Munsif has recorded finding while rejecting the petition of the petitioner that since the issues have already been settled and the question raised by the petitioner is one of the issues in the suit, therefore, the same can be decided at the final stage of the hearing of the suit. For decision of the aforesaid issue, the evidences are required to be recorded and accordingly, rejected the petition of the petitioner. I find no error or illegality in the order impugned. The petitioner wanted to decide the question as preliminary issue that the Secretary of the trust wanted to convert the use of the suit premises without obtaining approval/permission from the authority of the Religious Trust Board but this question can be decided along with other issues. The petitioner has got remedy to agitate this matter and adduce evidence that the plaintiff does not require bonafidely and genuinely the suit preemies on the personal necessity as the plaintiff is not at all required to change the use of the suit premises and thus, I do not find any jurisdictional error in the order impugned.

Accordingly, I do not find any merit in this civil revision petition, and, this civil revision petition is dismissed.

(Prabhat Kumar Jha, J)

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