

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.41 of 2019

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Md. Manzoor Alam, Aged about 54 years, Male, S/o Late Abdul Jabbar, Resident of Village Milki, P.S. K.Hat, Distt.-Purnea, at present, Address- Ward No.8/14 Holding No.3 CI of Purnea Municipality, P.S. K. Hat, District Purnea.

... .. Appellant

Versus

1. Smt. Shikha Bose, Aged about 59 years, Female, D/o Basant Kumar Mitra, W/o Satya Ranjan Bose, Moh.- Bhatta Bazar, Distt.-Purnea
2. Shri Satya Ranjan Bose, Aged about 70 years, Male, S/o Late Manmohan Bose, Moh.- Bhatta Bazar, Distt.-Purnea
3. Rajesh Kumar, Aged about 43 years, Male, S/o Late Mohan Lal, Resident of Mohalla Navratan Hata, Bhatta, P.S.- K. Hat, Distt.-Purnea
4. Shri Shashidhar Bharti, Aged about 48 years, Male, S/o Shri Nityanand Yadav, Resident of Mohalla Cant Station, P.S.- K.Hat, Distt.-Purnea

... .. Respondents

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Appearance :

For the Appellants	:	Mr. Abbas Haider, Advocate Mr. Syed Firoz Raza, Advocate Mr. Ranjay Kumar Singh, Advocate
for Respondents	:	Mr. S.S. Dwivedi, Senior Advocate Mr. Partha Gaurav, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 15-07-2019 Heard Mr. Syed Firoz Raza, learned counsel for the appellant and Mr. Shashi Shekhar Dwivedi, the learned Senior counsel appearing on behalf of the respondents.

The plaintiff has filed the second appeal against the judgment and decree passed by the Vth Additional District Judge, Purnea in Eviction Appeal No.12 of 2014/C.I.S. No.14 of 2014 by which the judgment and decree passed in Eviction Suit No.1 of 1999 was affirmed and the appeal has been dismissed. The appellant was directed to vacate the suit premises and pay the



arrears of rent.

The plaintiffs-respondents filed the suit for eviction of the suit premises on the ground of personal necessity and in default of payment of rent and arrears of rent.

The appellant put forth that the defendant-appellant was inducted in the suit premises as the monthly tenant on payment of rent of Rs.1,000/- but later on defendant stopped payment of rent and also did not vacate the suit premises. The plaintiffs required the suit premises for his personal necessity. Plaintiffs are residing in a rented house.

The defendant-appellant appeared and filed WS putting forth his case that in fact the respondents entered into an agreement (Ext.A) with him for sale of the property and the appellant paid a sum of Rs.50,000/- towards the consideration money and entered into the suit premises as the owner of the land. The appellant denied the relationship of landlord and tenant.

The trial court held that the appellant was inducted as a tenant and disbelieved the story of the appellant for induction in the suit premises as owner of the land in pursuance of the agreement (Ext.A). The trial court also found that there is no proof of payment of any consideration money. Even signature of the plaintiffs on Ext.A was not proved and directed the appellant to give possession of the suit premises and pay the arrears of rent.



The appellate court also on the basis of the re-appraisal of evidence on record held that the appellant was inducted as a tenant and he is not paying the rent and also recorded finding that the plaintiffs are in personal need of the suit premises and dismissed the appeal.

Learned counsel for the petitioner submits that both the courts have erred in passing the order of eviction against the appellant without giving any finding with regard to the relationship of landlord and tenant between the appellant and the respondents. There is no evidence on record to show that the appellant was ever inducted in the suit premises as a tenant, therefore, the order of eviction of the appellant from the suit premises is illegal.

On the other hand, Mr. Shashi Shekhar Dwivedi, the learned Senior counsel for the respondents submits that both the courts by a concurrent finding held that the appellant was inducted as a tenant and he failed to pay the arrears of rent. The respondents also required the suit premises for their personal necessity.

Having considered the submissions of both sides and on perusal of judgment, I find that both the courts have recorded concurrent finding that the appellant entered into the suit premises as a tenant and disbelieved the story of the appellant that he entered into the suit premises as an owner by virtue of a deed of



agreement to sell (Ext.A) and also held that there is no evidence on record for payment of any money as consideration amount to plaintiffs. It has been held that the appellant entered into the suit premises as tenant but he manufactured a deed of agreement to sell and claimed possession over the suit land in pursuance of the agreement but the appellant could not be able to prove the deed of agreement to sell and payment of any money as consideration money in pursuance of the said alleged deed of agreement and both the courts by a concurrent finding of facts held disbelieving the story of agreement to sell that the appellant is a tenant and he defaulted in payment of rent besides that the plaintiff-respondent are in need of suit premises for their personal necessity. It has not been pointed out that any evidence is not considered.

Thus, I do not find any reason to interfere with the concurrent finding of both the courts. No substantial question of law arises for consideration in this second appeal and consequently the second appeal is dismissed.

(Prabhat Kumar Jha, J)

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