

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.535 of 2019**

Horil Prasad son of Late Mahavir Mahto r/o village Neemapur, P.S. Silao,
District Nalanda At present PS Chabiliapur, District Nalanda.

... .. Plaintiff-Petitioner

Versus

Brij Nandan Pandit son of Late Ram Chandra Pandit r/o village Neemapur,
P.S. Silao, District Nalanda At present PS Chabilapur, District Nalanda.

... .. Defendant/Respondent

Appearance :

For the Petitioner : Mr.Rabindra Prasad Singh, Advocate
For the Respondent : Mr.

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 30-08-2019

Heard learned counsel for the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 07.01.2019 passed by the learned Munsif, Nalanda at Biharsharif in Eviction Suit No. 12 of 2013 whereby he has rejected the petition filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure (for short 'CPC') for amendment in the plaint.

3. Learned counsel appearing for the petitioner submitted that the order impugned has been passed by the learned Munsif without application of judicial mind. The same is cryptic and perverse. He contended that the learned Munsif failed to appreciate that the defendant had denied the pleading made by the



petitioner that he is a tenant. Under the circumstances, the application of the petitioner for converting the eviction suit into a title suit and for declaration of right, title and possession of the petitioner over the suit land by way of amendment ought to have been allowed.

4. Having heard learned counsel for the petitioner and perused the record, I find that the petitioner is the plaintiff in Eviction Suit No. 12 of 2013. In the said suit, he has prayed for eviction of the defendant from the house as stated in Schedule-1 of the plaint. He has pleaded that the respondent has stopped giving rent from November, 2011 and he became the defaulter. The eviction has been sought for on the ground of default in payment of rent.

5. The defendant has filed his written statement wherein he has taken a plea that the case is not maintainable as there is no relationship of landlord and tenant with the petitioner. After the written statement was filed, the petitioner filed an application under Order 6, Rule 17 of the CPC seeking amendment in the plaint. The amendments sought for were : (i) conversion of eviction suit into title suit, (ii) in case the petitioner fails to establish the relationship of landlord and tenant over the Schedule-



1 property, his title on the said property be declared and (iii) the petitioner be put into possession over the suit property.

6. Vide order impugned dated 17.01.2019, the learned Munsif dismissed the application filed by the petitioner under Order 6, Rule 17 on the ground that the Rent Controller has a limited jurisdiction to try the suits on the grounds specified in the Special Act. The suit for declaration of title and recovery of possession of the suit property against the defendant is beyond the Jurisdiction of Rent Controller.

7. While dealing with the suit of the plaintiff for eviction of the defendant from the suit premises under clauses (c) and (d) of sub-section (1) of Section 11 of the Buildings (Lease, Rent and Eviction) Control Act, (4 of 1983), the sine qua non for granting the relief is the relationship of landlord and tenant between the plaintiffs and the defendant. The Rent Controller has a very limited jurisdiction in the suit. The question of title of parties over a suit premises is not relevant in an eviction suit. The Rent Controller does not have the jurisdiction of an ordinary civil court which would pass a decree of eviction of the defendant on a ground other than specified in the Act.

8. In that view of the matter, since the amendments sought were in the nature of conversion of the



eviction suit into title suit for declaration of title and recovery of possession, the learned Munsif rightly rejected the application filed by the petitioner.

9. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.09.2019
Transmission Date	

