

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.524 of 2019

Shiv Kumar Budhia Son of late Purushottam Das Budhia, Resident of Daulat Ram Durga Dutt, Kalali Gali, Sujaganj, P.O. Bari Post Office- Bhagalpur, P.S. Kotwali, District- Bhagalpur.

... .. Defendant/Petitioner

Versus

1. Radha Devi Wife of late Shubhkaran Sah, Resident of Darshan Sah Lane, Sujaganj Bazar, P.S. Kotwali, District- Bhagalpur.
2. Ashok Kumar Sah, Son of late Shubhkaran Sah, Resident of Darshan Sah Lane, Sujaganj Bazar, P.S. Kotwali, District- Bhagalpur.
3. Manoj Kumar Sah, Son of late Shubhkaran Sah, Resident of Darshan Sah Lane, Sujaganj Bazar, P.S. Kotwali, District- Bhagalpur.

... .. Plaintiffs/Respondents

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Adv.
		Mr. Diwakar Upadhyaya, Adv.
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-05-2019

This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 11.03.2019 passed by the learned Munsif 2nd, Bhagalpur in Title (Eviction) Suit No. 03 of 2018 whereby two applications filed by the petitioner on 14.02.2019 one for recall of the order dated 09.01.2019 whereby the defendant was debarred from filing his written statement and the other to adopt the affidavit filed by the defendant on 03.07.2018 as written statement have been rejected.



2. Mr. N.K. Agrawal, learned senior advocate appearing for the petitioner submitted that the order impugned is entirely illegal. The trial court has failed to exercise its jurisdiction in the given facts and circumstances of the case. The petitioner would suffer irreparable loss and damage if the impugned order is not set aside. He contended that the court below failed to appreciate that it has been vested with the power to extend time for filing written statement. It also failed to appreciate that when leave was granted to the petitioner, on mere technical ground, the order should not have been passed, which would have debarred the petitioner from filing written statement.

3. The facts of the case in brief are that the plaintiffs-respondents had filed Title (Eviction) Suit No. 03 of 2018 in the court of Munsif 2nd, Bhagalpur under Section 14 of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982 (for short 'the Act') on the ground of personal necessity. The defendant petitioner appeared in the suit and filed an application under Section 14(4) of the Act seeking leave to contest the suit.

4. By order dated 03.07.2018, the prayer for leave to contest made by the petitioner was allowed and he was directed to file written statement within the time prescribed i.e. 15 days under Section 14(6) of the Act. The petitioner failed to file written



statement within the time allowed by the court. I find from the record that the suit was adjourned from one date to another between 3rd July, 2018 to 20th September, 2018, but no written statement was filed. On 20th September, 2018, the suit was again adjourned to 27th October, 2018. On 27th October, 2018, the learned Munsif granted last chance to the petitioner to file written statement by 10th December, 2018. Since the petitioner failed to file written statement in spite of repeated adjournments granted by the court, by order dated 09.01.2019, the petitioner was debarred from filing any written statement.

5. Thereafter, the petitioner filed two petitions on 14.02.2019. One for recall of the order dated 09.01.2019 whereby the defendant was debarred from filing his written statement and the other for adopting the affidavit filed by the petitioner on 03.07.2018 as written statement. Both the petitions have been brought on record and marked as Annexure-2 series.

6. On perusal of the applications, it would be evident that no ground for not filing the written statement within the time stipulated under the Act or the extended time granted by the court has been mentioned.

7. Sub-section (6) of Section 14 of the Act provides that when leave is granted to the tenant to contest the suit, the latter



may, within fifteen days from the date of the order, pray after filing the requisite court-fee, required for a written statement that the affidavit may be treated as the written statement or if he chooses to file a separate written statement he may do so within fifteen days of the grant of leave to contest the suit and if he does not file the written statement within the period he shall not be allowed to do so later. The court shall thereafter commence the hearing of the suit as early as practicable.

8. The said provision was introduced under the Act in the year 1982 with the sole object to make available speedy remedy to the landlord if he requires the suit premises for bonafide personal necessity. As seen above, under sub-section (6) of Section 14 of the Act, the written statement has to be filed within fifteen days of the grant of leave to contest the suit.

9. In the instant case, after grant of leave on 3rd July, 2018, written statement was not filed by the defendant petitioner till 9th January, 2019, the date on which the learned Munsif debarred him from filing written statement. Even the subsequent application filed for recall of the order dated 9th January, 2019 contains no ground or reason for not filing the written statement within the time.



10. Under the circumstances noted above, I see no reason to interfere with the order impugned under supervisory jurisdiction under Article 227 of the Constitution of India, as the same is neither perverse nor without jurisdiction. The object of the Act cannot be allowed to be frustrated by allowing filing of the written statement beyond the period prescribed in law and that too without disclosing any special reason for not filing the same even within the extended time granted by the court.

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

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.05.2019
Transmission Date	

