

IN THE HIGH COURT OF JUDICATURE AT PATNA
Second Appeal No.30 of 2009

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Md. Muslehuddin @ Mislehuddin son of Late Abdul Hameed, resident of village/Mohalla-Bhouara, Ragho Nagar, Ward No.19 (old) 17 (New) Madhubani Town, Police Station -Madhubani, District-Madhubani.

... .. Appellant

Versus

Dr. Deo Shankar Mishra son of Late Upendra Mishra, resident of Madhubani Town, Mohalla – Station Road (Medical Officer, Sadar Hospital, Madhubani), P.S and District – Madhubani.

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Prabhas Ranjan, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 07-01-2019

Heard learned counsel for the appellant.

2. The plaintiff filed a suit against the defendant for eviction of the suit premises on the ground of personal necessity and in default of payment of rent. The defendant appeared and filed written statement denying the relationship of landlord and tenant between the plaintiff and the defendant. The defendant further stated that he is tenant of Saifulla Ansari, the own brother of plaintiff, who inducted him in the suit premises and realised rent from him. The defendant already vacated the suit premises in the year 1998 and handed over the key of the suit premises to Saifulla Ansari. The court of learned Munsif framed different issues including the issue whether there is relationship of landlord and



tenant between the plaintiff and defendant and the plaintiff is entitled to evict the defendant from the suit premises and to realise arrears of rent. The learned Munsif after discussing the material evidence on record held that there is no relationship of landlord and tenant between the plaintiff and defendant and the plaintiff is not entitled to get the defendant evicted from the suit premises and to realise arrears of rent. The first appellate court on being appeal preferred by the plaintiff-appellant also held after considering the entire evidence on record that there is no relationship of landlord and tenant between the plaintiff and defendant and dismissed the appeal.

3. Learned counsel for the plaintiff-appellant submits that the appellant purchased the lands by virtue of two sale deeds in the year 1971 and 1972. The sale deeds executed in favour of plaintiff-appellant show that the plaintiff is the owner of the property. Of course, there is no documentary evidence but there is oral evidence on record that the plaintiff always realised rent from the defendant but I find from perusal of document that both courts of learned Munsif and learned Additional District Judge discussed the evidence on record and came to a definite finding that the plaintiff failed to prove the relationship of landlord and tenant between the plaintiff and defendant. The learned counsel for the



appellant could not be able to show the non-consideration of any evidence either documentary or oral in order to prove the relationship of landlord and tenant between the plaintiff and defendant. Therefore, I find that these issues have been concluded by a concurrent finding of both the courts below and thus I do not find any substantial question of law or any perversity in judgment on account of non-consideration of any evidence.

4. Accordingly, I do not find any merit in the Second Appeal and the same is dismissed.

(Prabhat Kumar Jha, J)

Harish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.01.2019
Transmission Date	

