

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.87 of 2018

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Amir Mahto son of Late Bipat Mahto r/o Mohalla-Duzrachak, P.S. Budha Colony, District- Patna

... .. Petitioner

Versus

Ram Pratap Mahto s/o Late Aklu Mahto, resident of Mohalla-Duzrachak, P.S. Budha Colony, District-Patna

... .. Opp.Party.

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Appearance :

For the Petitioner/s : Mr.Dr. Rajesh Kumar Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 06-01-2020 Learned counsel for the petitioner has very fairly drawn my attention to the order dated 11.09.2018 passed in Second Appeal No.311 of 2017, paragraph nos.7 and 8 of which reads as under:

*“7. In my view, Mr. Verma is correct in his submission that the objection which has been raised has direct answer in paragraph 6 and 7 of the Supreme Court’s decision in case of **Ram Prasad Rajak(supra)**. The Supreme Court, dealing with Section 14(8) of the Act has specifically held that revision under proviso to Sub-Section 8 of Section 14 of the Act against judgment of the appellate court granting decree for eviction in favour of the appellant was not maintainable, there being no provision in Section 14(8) of the Act for a revision against an appellate order. The Supreme Court, in most uncertain terms has held that the said Sub-*



Section refers to an order passed by the trial court for recovery of possession in favour of the landlord. The Supreme Court has further clarified that if the trial court dismisses the suit, the only remedy of landlord is to file an appeal under Section 96 of the CPC and when such appeal is disposed of by the appellate court, the further remedy of the aggrieved party is only under Section 100 of the CPC and there would be no question of reverting back to Section 14(8) of the Act. The Supreme Court has further explained to most unambiguous and clear terms that, by no stretch of imagination, the appellate order and decree can be considered to be an order of the trial Court for recovery of possession within the meaning of Section 14(8) of the Act.

8. Upon reading of paragraph 7 of the said Judgment, it is easily noticeable that the Supreme Court did not approve of the High Court entertaining a revision application in similar circumstance, rather the Supreme Court treated the said revision application filed before the High Court as a second appeal under Section 100 of the CPC, for the purpose of adjudication.”

This civil revision application under Section 115 of the Code of Civil Procedure against the Judgment dated 24.07.2017 passed by the learned Addl. District Judge-X, Patna in Title Eviction Appeal No.123 of 2013 cannot be maintained and is, accordingly, dismissed as not maintainable.



Since this civil revision application is being dismissed as not maintainable, the petitioner shall have liberty to take back certified copy of the impugned order enclosed with the present application from the office.

It goes without saying that the petitioner shall have liberty to take legal recourse against the impugned order in accordance with law.

(Chakradhari Sharan Singh, J.)

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