

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1777 of 2019**

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Tahir Ali @ Zohar Ali son of Mulla Nana Bhai Ekjan Enterprises, Exhibition Road, Patna, P.S. Gandhi Maidan, District- Patna, resident of Flat No. 501, Nazmi Manzil, Bohra Masjid Complex Station Road, P.S. Kotwali, District- Patna.

... .. Petitioner/s

Versus

M/s Hotel Fort a partnership firm registered under the Indian Partnership Act, 1932, having its registered office at Rajendra Path, Station Road, Patna through its partner Shri Uttam Kumar (male) aged about- 55 years, son of Late Ishwari Singh, resident of Phulwarisharif, Near Patna Dairy Project, Patna- 1, P.S. Phulwarisharif, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeeb Kumar Sanju
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 17-01-2020

Heard learned counsel for the petitioner.

2. The present petition has been filed *"for quashing of the order dated 15.10.2019 passed by the learned Munsif Illrd, Patna in Eviction Suit No. 17 of 2015..... by which the learned Musif passed the impugned order directing therein that written statement cannot be taken on record at this stage without filing leave petition under Section 14(4) of the Bihar Buildings (Lease Rent and Eviction) Control Act, 1982."*

3. Learned counsel for the petitioner submits that the impugned order has been passed erroneously with reference to Section 14(4) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred to as 'the Act'), by



deferring the consideration of the written statement until filing of an affidavit by the defendant/petitioner in terms of the said provision. It is submitted that such order has been passed in oversight of the earlier numerous orders when the matter was adjourned for filing of written statement. Learned counsel for the defendant/petitioner has further sought to submit that the plaintiff/respondent was not the landlord of the defendant/petitioner and that, in any event, the suit for eviction was not one within the ambit of Section 11(c) of the Act, in view of which Section 14 had no application.

4. Having heard learned counsel for the defendant/petitioner and on consideration of the materials on record, this Court is not inclined to interfere in the matter. No doubt it appears from the order sheet of the case that the matter was being adjourned for purposes of filing written statement from time to time, as also an application under Order XXXIX CPC filed by the plaintiff/respondent and the list of documents and written statement filed by the defendant/petitioner were taken on record. However, no speaking order by the learned Court below has been referred to by the defendant/petitioner to indicate that the suit was not treated as one under Section 11(c) of the Act. As such the adjournment granted and the progress in the case appear to be in oversight of the statutory provision contained in Section 14(4) of the Act which is mandatory in



nature. This Court is therefore of the view that the learned Court below has rightly deferred the consideration of the defendant/petitioner’s written statement and has granted time to file requisite affidavit and seek leave in terms of Section 14(4) of the Act. The defendant/petitioner would therefore be at liberty to set out the grounds on which he proposes to contest the suit and no prejudice would be caused to him. The impugned order calls for no interference.

5. The petition stands dismissed.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.01.2020
Transmission Date	NA

