

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.125 of 2016

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Awtar Singh, S/o Sri S.B.N. Singh, Owner of "WOODLAND", Ground Floor, Harihar Chamber, Boring Road, Patna-1

Defendant/ Petitioner

Versus

1. Jay Kumar Singh, Director, CECON Engineers India Pvt. Ltd., kaving its registered office at Bank Colony, St. Karen's School, Gola Road, Patna-810503.
2. Smt. Neena Das, Director, Ashary Engicon Pvt. Ltd., Having its registered office Tube well No. 2, Sheikhpura, Patna-810503.

Plaintiffs/Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ajay Behari Sinha
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
CAV JUDGMENT

Date : 18-08-2022

Heard learned counsel for the petitioner.

2. This Civil Revision has been preferred against the order dated 19.03.2016 passed by learned Subordinate Judge-XI, Patna in Eviction Suit No. 68 of 2008 whereby a petition dated 02.04.2011 under Order VII Rule 11 (a) and (d) of Code of Civil Procedure praying for rejection of suit as not maintainable was rejected.

3. The plaintiffs have filed Eviction Suit No. 68 of 2008 before Sub-Judge-1, Patna on the grounds of non-payment of rent and personal necessity. The defendant/petitioner on service of summons appeared and filed written statement and denied the claim of plaintiffs on various grounds specially that there is no relationship of landlord and tenant between the plaintiffs and the defendant. In the proceeding defendant/petitioner filed a petition dated 02.04.2011 for



rejection of suit under Order VII Rule 11 (a) and (d) of the CPC. The learned trial court vide the impugned order dated 19.03.2016, rejected the petition dated 02.04.2011 observing that the relationship of landlord and tenant and cause of action are mixed question of facts and law and at this stage not found any merit in the said petition. Hence, this Civil Revision..

4. Learned counsel for the petitioner has submitted that learned trial court failed to appreciate that the defendant has been neither inducted by the plaintiffs as tenant nor the plaintiffs are landlord. It is further submitted that plaintiffs have failed to produce a chit of paper to establish at least prima facie the relationship of landlord and tenant and accordingly plaintiffs have no cause of action to file the present suit and the suit deserves to be rejected under Order VII Rule 11 CPC. Accordingly, he prayed to set aside the impugned order.

5. Order VII Rule 11 (a) and (d) of CPC provide that the suit shall be rejected (a) where it does not disclose a cause of action, and (d) where the suit appears from the statement in the plaint to be barred by any law. For deciding an application under Order VII Rule 11, the court can only see the pleadings in the plaint and not anything else including written statement. The Court cannot for the determination of the application, look into the defence set up by the defendants.



6. The Civil Procedure Code, 1908 provides for the remedy of rejection of plaint under Order VII Rule 11, on certain specifically stated grounds. Rejection of plaint weeds about frivolous, vexatious and improper plaint at the very outset, thus, saving judicial time and resources. The entire purpose of conferment of such powers under Order VII Rule 11 is to ensure that a litigation, which is meaningless and bound to prove abortive is not permitted to occupy the time of courts. Such a remedy is necessary to put an end to the sham litigation, so the further judicial time is not wasted.

7. Having heard learned counsel for the petitioner and considering the material available on record, this court does not find any infirmity or jurisdictional error in the impugned order. At this stage it cannot be said that the plaint does not disclose a cause of action or it is barred by any law. The reasoning given by the learned trial court cannot be said to be suffering from any patent illegality or irregularity requiring any inference by this court in its Revisional jurisdiction.

8. Accordingly, this revision petition is dismissed as being devoid of merits.

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	NAFR
CAV DATE	04/07/2022
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