

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.763 of 2018

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Usha Devi Wife of Late Arjun Kumar Yadav, present Resident of Mohalla-Buddha Colony, Plot No. B/154, Near Erstwhile Sanskrit Shiksha Board, P.S.-Buddha Colony, Dist.- Patna, as Well permanent Resident of Village-Surajpur, P.S.- Surajgarha, Dist- Lakhisarai.

... .. Petitioner/s

Versus

Smt. Kusum Pandey Wife of Shri Sudama Pandey, Resident of Mohalla-Buddha Colony, A/11, P.S.- Buddha Colony, Dist.- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Sinha, Advocate
		Mr. Nityanand, Advocate
For the Respondent/s	:	Mr. Manoj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 28-07-2022 Heard learned counsel for the parties concerned.

The petitioner is a tenant in the suit premises in a suit which has been filed by the Respondent/Plaintiff.

Learned counsel for the petitioner submits that the petitioner/tenant is aggrieved by the impugned order dated 19.01.2018 passed by the learned Sub Judge-IV, Patna, in Eviction Suit No. 39 of 2012, by which, the learned trial court has refused to fix twenty installments for payment of arrears of rent and current rent. Learned counsel further submits that husband of the petitioner has been suffering from cancer and due to hardship faced by her, she could not pay the arrears of rent in totality and, accordingly,



she made a prayer for payment of arrears of rent and current rent in installment.

I have heard learned counsel for the petitioner and have gone through the impugned order. It appears that vide order dated 6.9.2016, the trial court directed the tenant to deposit the arrears of rent per month starting from 2012 and the current rent. It also appears that the said order was challenged before this Court in Civil Miscellaneous No. 6 of 2017 which got dismissed vide order dated 17.01.2017 and this Court had directed the petitioner/tenant to deposit the rent in terms of the order passed by the learned trial court.

In view of the aforesaid, I find that admittedly arrears of rent has not been deposited by the petitioner as per the order of the learned trial court dated 6.9.2016 and her defence has been struck off. Section 15 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1947, clearly stipulates that on failure of tenant to deposit arrears of rent within fifteen days from the date of the order, the court shall order the defence against ejectment to be struck off. There is no provision in the statutes regarding payment



of arrears of rent and current rent in installments by the tenant.

In view of the aforesaid, I do not find any force in the submission of the learned counsel for the petitioner allowing the petitioner to pay the due rent in installment.

As such, the impugned order is not required to be interfered with by this Court.

Accordingly, this application stands dismissed.

I.A. No. 7012 of 2018 also stands disposed of.

(Anil Kumar Sinha, J)

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