

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.809 of 2018

Syed Shameem Anwar son of Hakim Abdul Majeed Resident of Mohalla -
Maulvi Tola, P.O. and P.S. - Araria and District – Araria. Petitioner/s
Versus

1. Md. Ashique Ahmad
2. Md. Kalam Ahmad
3. Md. Salam Ahmad
4. Md. Ghulam Ahmad
5. Md. Niyaz Ahmad
6. Md. Nasim Ahmad
7. Bibi Khursheeda Begum
8. Most. Asia Khatoon All sons , daughter and widow of Late Md. Aiyub
residing at mohalla - Maulvi Tola, Hospital Road, P.O. and P.S. Araria and
District Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar,
Mr. Mohammad Abu Shajar, Advocates.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 08-09-2022 Heard learned counsel for the petitioner.

2. The present application is directed against order dated 05.03.2018 passed by the learned Sub Judge 1st , Araria in Eviction Suit No. 01/2012 whereby the defendant/petitioner has been directed to deposit arrears of rent for the months of December 2012 till July 2015 in the civil court, Araria.

3. The petitioner is defendant in a suit for eviction filed by respondents/plaintiffs on the ground of personal necessity under Section 14 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred to as the Act). The plaintiffs filed an application in the aforesaid suit under Section 15 of the Act for directing the defendant/petitioner to pay arrears of rent which had fallen due



from the month of December 2012 till July 2015. The last monthly rate of rent, according to the plaintiffs, was Rs. 2000/- per month and accordingly, the plaintiffs sought a direction under Section 15 of the Act for deposit of a sum of Rs. 62,000/- (Sixty two thousand) as arrears of rent by the petitioner, which has been allowed. According to the plaintiff the petitioner/defendant is a tenant of the plaintiffs which would be evident from the documentary evidence produced by the plaintiffs.

4. Learned counsel for the petitioner submits that there is no relationship of landlord and tenant between the parties. The petitioner/defendant has received the property/suit premise as gift from one Nawazul Haque but due to mistake in survey record, the suit land was wrongly recorded in the name of ancestors of plaintiffs but neither the plaintiffs nor the ancestors of plaintiffs came in possession over the suit property. The heirs of late Nawazul Haque filed a Title Suit bearing no. 525/1990 and in the said Title Suit, the respondents/plaintiffs are defendant and the suit is for declaration of title over the suit land/premises.

5. Accordingly, the submission is that there is no relationship of landlord and tenant between the parties, the court



below has wrongly directed the petitioner to deposit the arrears of rent in the Nazarat of the civil court.

6. I have heard learned counsel for the petitioner, perused the material on record as well as impugned order.

7. It appears that suit for eviction has been filed by the respondents/plaintiffs against the defendant/petitioner for a decree of eviction from the suit premises mentioned in the plaint on the ground of personal necessity of the plaintiffs. A petition under Section 15 of the Act was filed by the plaintiffs/respondents for a direction to the defendant/petitioner to deposit the arrears of rent. The learned trial court has considered the rival submissions of the parties and in the impugned order has recorded the fact that at the time of admission of the suit, the plaintiff filed a photo copy of the certified copy of the judgment and final decree of Title Suit No. 42/1993. The plaintiff has stated in the plaint at para-2 that learned court in Title Suit No. 42/1993 has recognized Md. Shamim Anwar i.e., the petitioner as tenant of the suit premises. The pleader commissioner's report has been accepted in final decree proceeding arising out of T.S. No. 42/1993 where it has been mentioned that the defendant no. 3 to 9 are monthly tenants of defendant no. 1 and 2. The present plaintiffs are legal



heirs of defendant no. 1. The defendant/petitioner has denied this fact and has only stated that he had no notice of such proceeding but has failed to bring any document on record before the district court showing challenge to the order of final decree passed in Title Suit No. 42/1993.

8. Under Section 15 of the Act, the Court has power and jurisdiction to direct the tenant to deposit rent month to month and the arrears of rent, if any, within stipulated time limit. The learned trial court in exercise of statutory power conferred upon it under the Act and after arriving at the finding that there is tenant/landlord relationship between the parties and on the basis of last rent paid has directed the petitioner to deposit the arrears of rent to the tune of Rs. 62,000/- in Nazarat/ court.

9. In view of the aforesaid discussions on the point of law and the fact, I come to the conclusion that the learned trial court has not committed any jurisdictional error in the order impugned requiring interference by this Court. Accordingly, this application is dismissed.

(Anil Kumar Sinha, J)

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