

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.14 of 2020

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Aziz Ahmad Khan Son of Late Ashfaque Ahmad Khan, Resident of Basement Floor, Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District - Patna, PIN- 800001.

... .. Appellant/s

Versus

1. Dr. Ahmad Abdul Hai, Son of Late Dr. M.A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.
2. Hashmat Hai, Wife of Dr. A.A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.
3. Mohamid Abdul Hai, Son of Dr. A.A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.
4. Hamida Hai, Daughter of Dr. A.A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.
5. Kulsun Hai, Daughter of Dr. A.A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.
6. Nilofer Hai, Wife of Dr. Hamida A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.
7. Ayesha Hai, Daughter of Dr. Mahmood A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent



No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.

8. Yusuf Abdul Hai, Son of Dr. Mahmood A. Hai, Respondent No.1 self and for respondent no. 2 to 8 as their attorney, who have executed Power of Attorney in favour of respondent no. 1, Dr. Ahmad Abdul Hai. Respondent No. 4 to 8 are living abroad and rest are Residents of Abdul Hai Commercial Complex, Exhibition Road, Post Office- G.P.O., Police Station- Gandhi Maidan, Town and District- Patna, PIN- 800001.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar, Advocate
For the Respondent/s : Mr. Jitendra Kishore Verma, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 29-06-2022 Heard learned counsel for the appellant and learned counsel for the respondents.

It is submitted by learned counsel for the parties that the interlocutory application (I.A. no. 2 of 2022) has been filed under Order XXIII Rule 3 of the Code of Civil Procedure jointly affidavited by the sole appellant as also by the respondent no. 1 on his own behalf as also on behalf of the respondent nos. 2 to 8.

The contents of the joint compromise petition as narrated in the above I.A. no. 2 of 2022 is being reproduced herein below.

“The joint compromise petition on behalf of the above named parties.

Most Respectfully Sheweth :-

1. That the present



Interlocutory Application is being filed on behalf of the parties to the present appeal for disposal of the present appeal on compromise on the terms and conditions agreed upon between them as detailed in the present Interlocutory application.

2. That the parties to the present appeal have not earlier moved before this Hon'ble Court with a petition of present nature in regard to the instant appeal.

3. That the aforesaid first appeal has been preferred against the judgment and decree, passed in Eviction Suit No. 74 of 2012 by the court of Subordinate Judge-XII, Patna, whereby a decree of eviction in respect of the premises in suit has been passed against the defendant-Appellant.

4. That during the pendency of the present appeal by the intervention of common friends and well-wishers good sense has prevailed upon the parties and they have agreed to settle their all disputes and differences out of Court amicably. Accordingly they have entered into the compromise which will be binding on the parties and their respective successors, heirs, executors, and assigns.

5. That it has been agreed upon that the defendnt-appellant shall vacate the premises in suit by 31st day of December 2023 and till then shall continue in the suit premises as tenant and will continue to make payment of rent @ Rs, 1,07,778.00 per month to the plaintiff-respondent regularly, by the tenth day of every succeeding month for which the rent is due. The Defendant-Appellant has also agreed to pay to the Plaintiffs-Respondents



dues of rent for the month of March & April 2022, not yet paid, without further delay.

6. That there shall be no claim of either party against each other, nor the plaintiff-respondent shall disturb the defendant-appellant during the agreed period in continuing in the premises of suit.

7. That the defendant shall vacate the premises in suit by the 31st day of December 2023 and shall handover the key of that premises to the plaintiff without need of execution.

8. That the respective parties shall bear their own cost of litigation.

9. That the aforesaid first appeal is required to be disposed of in terms of this compromise arrived between the parties which have been reflected in this joint compromise petition and this compromise petition is to be made part of the decree to be drawn in this first appeal.

It is therefore prayed that your lordships may graciously be pleased to accept this compromise arrived at between the parties and be plead to dispose of the aforesaid First Appeal in terms of this comprise, with a direction to the office to make this compromise petition as part of the decree to be drawn in the aforesaid First appeal.

And/or

Pass such other order or orders as your lordships may think fit and proper.

And for this the Parties shall ever pray.”

It is jointly submitted by learned counsel for the parties that the parties have started acting as per the terms of the



compromise quoted herein above and the rent for the months of March and April 2022 referred to in paragraph nos. 3 to 5 of I.A. no. 2 of 2022 has already been paid.

Having heard learned counsel for the parties and taking into consideration the contents of the petition as also the affidavits, the instant appeal is disposed of in terms of the compromise reproduced/quoted herein above.

Let a decree be prepared in terms of the compromise.

The appeal stands disposed off.

(Partha Sarthy, J)

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