

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.175 of 2021**

1. Sita Ram Sah Son of Late Chulhai Sah Resident of Mohalla - Chakai Zamganj (Balughat) Post Office - Lalbagh, Police Station - L.N.M.U., District- Darbhanga.
2. Vijay Kumar Sah Son of Sita Ram Sah Resident of Mohalla - Chakai Zamganj (Balughat) Post Office - Lalbagh, Police Station - L.N.M.U., District- Darbhanga.

... .. Petitioner/s

Versus

Dr. Md. Azam Hussain Son of Late Tahir Hussain Ansari @ Zabir Ansari
Resident of Mohalla- Shibdhara (Alganj), Post Office - Lalbagh, Police
Station - L.N.M.U. District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chittaranjan Sinha, Sr. Advocate Mr. Surya Nilambari, Advocate Mr. Alok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. S.S. Duivedi, Sr. Advocate Mr. Parth Gaurav, Advocate Mr. Praveer, Advocate. Mr. Rajiv S. Duivedi, Advocate Mr. Ashuthosh Kumar Pandey, Advocate

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT**

Date : 12-07-2022

Heard Mr. Chittaranjan Sinha, learned senior counsel
for the petitioners and Mr. S.S. Duivedi, learned senior counsel
appearing for the Respondents.

2. The petitioners are the appellants in Eviction
Appeal No. 03 of 2016 and are aggrieved by the order dated
12.01.2021 passed by the learned 7th Additional District Judge,
Darbhanga, by which the petition filed by Respondent/Plaintiff
under Section 15 of the Bihar Buildings (Lease, Rent and
Eviction) Control Act, 1947, has been allowed and the petitioners



have been directed to deposit the arrears of rent and current rent in Court @ Rs.1,500/- per month subject to final outcome of the appeal.

3. Learned senior counsel appearing for the petitioners submits that learned court below has committed error of law by directing the petitioners to deposit a sum of Rs.1,500/- (Rupees One thousand five hundred) per month as rent without appreciating the fact that the last rent paid was only Rs.150/- (One hundred fifty) per month. It has further been argued that there is no relationship of landlord and tenant between the parties after November, 2009 inasmuch as the Plaintiff/Respondent entered into an agreement for sale with appellant No. 1 in respect of the suit premises and a suit for specific performance bearing Title Suit No. 218 of 2010 has been filed by the appellant which is pending in the Trial Court.

4. In the present case the admitted position is that the father of the Plaintiff/Respondent was the owner of the suit premises who inducted appellant No. 1 in the suit premises as a tenant. It is also not disputed that the petitioners appellant/defendants had been paying rent to the father of the Respondent in respect of the suit premises and after death of the



father, the appellants started paying rent to the Plaintiff/Respondent.

5. The brief fact of the case is that the Plaintiff/Respondent filed an Eviction Suit No. 06 of 2010 against the petitioners on the ground of *bona fide* requirements of suit premises and default in payment of rent by the defendants. The suit was decreed vide Judgment dated 12.05.2016 passed by the learned Munsif-I, Darbhanga, with a direction to the petitioners/appellants to hand over vacant possession of the suit premises described in Schedule-I of the plaint and to make payment of arrears of rent as well as current rent @ Rs.1,500/- per month till their eviction from the suit premises. Aggrieved by the same, the petitioners filed the Eviction Appeal No. 03 of 2016. On 05.02.2020, Respondent filed a petition under Section 15 of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947, for a direction to the petitioners/appellants to pay arrears of rent as well as current rent @ Rs.1,500/- per month.

6. On the other hand, learned senior counsel for the Respondent/Plaintiff submits that on the basis of sufficient materials and evidence adduced by the Respondent/Plaintiff, the learned lower appellate court in Eviction Appeal has come to the conclusion that last rent paid was a sum of Rs.1,500/- per month



and, further, came to the finding that there is landlord and tenant relationship between the parties and the same does not come to an end merely on the basis of execution of an agreement for sale as claimed by the petitioners.

7. I have heard learned counsel for the parties and have gone through the materials on record including the impugned order. It appears that the learned court below decreed the Eviction Suit on the ground of *bona fide* requirements and default in payment of rent, and directed the petitioners to hand over the vacant possession of the suit premises to Respondent and to pay arrears of rent as well as current rent @ Rs.1,500/- per month till their eviction from the suit premises. It also appears that the petitioners have stopped paying rent to the Respondent since November, 2009. The petitioners are claiming their right, title and interest over the suit premises since November, 2009 on the basis of claim made by them that they have paid the entire consideration amount for the suit premises to the Respondent and the Respondent had agreed to execute a registered sale deed in their favour with respect to the suit property. Accordingly, the contention of the petitioners is that they ceased to be a tenant after 2009. The suit filed by the petitioners bearing Title Suit No. 218 of



2010 against the Respondent for specific performance of contract is still pending.

8. From perusal of the impugned order, it appears that the learned lower appellate court has taken note of the fact that the Trial Court in Eviction Suit No. 06 of 2010 has come to the conclusion that no document purporting to be an agreement for sale has been filed on behalf of the Appellants/Petitioners in course of trial. The learned lower appellate court has also taken note of the several witnesses examined during the course of trial who have testified that the petitioners/appellants used to pay rent to the Respondent for the suit premises @ Rs.1,500/- per month.

9. On the conspectus of facts discussed hereinabove and the finding arrived at in the impugned order, I find no infirmity in the impugned order directing the petitioners to deposit rent @ Rs.1,500/- per month in Court. As such, the impugned order is not required to be interfered with.

10. Accordingly, this application stands dismissed.

(Anil Kumar Sinha, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.08.2022
Transmission Date	N.A.

