

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.409 of 2022

1. Prabhakar Kumar Son of Late Deokumar Prasad Resident of Mohalla- Katra Chhapra, Pragana- Manjhi, Post and P.S.- Bhagwan Bazar, District- Saran.
2. Most. Rampyari Devi Wife of Late Deokumar Prasad Resident of Mohalla- Katra Chhapra, Pragana- Manjhi, Post and P.S.- Bhagwan Bazar, District- Saran.
3. Smt. Babita Devi Wife of Ajay Bhagat and Daughter of Late Deokumar Prasad Present resident of Mohalla- Katra Chhapra, Pragana- Manjhi, Post and P.S.- Bhagwan Bazar, District- Saran.
4. Smt. Sabita Devi Wife of Rajendra Prasad and Daughter of Deokumar Prasad at present resident of Village- Bansdih Road, Post and P.S.- Bansdih, District- Balia, U.P.
5. Smt. Sarita @ Kavita Wife of Santosh Prasad and Daughter of Late Deokumar Prasad Resident of Village- Majhanpura, Post- Rivilganj, P.S.- Manjhi, District- Saran.

... .. Petitioner/s

Versus

1. Uma Shankar Prasad Son of Late Lakchhaman Prasad Resident of Mohalla Sahebganj, Kachahri Road, Post and P.S. Chhapra Nagar, District- Saran.
2. Prem Kumar Prasad @ Munna Prasad Son of Late Lakchhaman Prasad Resident of Mohalla Sahebganj, Kachahri Road, Post and P.S. Chhapra Nagar, District- Saran.
3. Raj Kumar Prasad Son of Late Lakchhaman Prasad Resident of Mohalla Sahebganj, Kachahri Road, Post and P.S. Chhapra Nagar, District- Saran.
4. Sanjay Kumar Son of Late Lakchhaman Prasad Resident of Mohalla Sahebganj, Kachahri Road, Post and P.S. Chhapra Nagar, District- Saran.
5. Smt. Urmila Devi Wife of Praveen Gupta and Daughter of Late Lakchhman Prasad Resident of Village- Shekhpura, Varanasi, Uttar Pradesh and at present resident of Sahebganj, Kachhahri Road, Post- Chhapra, P.S.- Chhapra, District- Saran.
6. Smt. Ragni Devi Wife of Shri Manoj Kumar Gupta and Daughter of Late Lakchhaman Prasad Resident of Banaras Bank Chauk, Muzaffarpur, Post and P.S.- Muzaffarpur, District- Muzaffarpur, at present resident of Mohalla- Sahebganj, Kachahari Road, Post- Chhapra, P.S. Chhapra, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Sr. Adv. Mr.Praveen Prakash
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 03-11-2022

Heard Mr. Surendra Kumar Singh, learned senior



counsel for the petitioner.

The petitioner is aggrieved by the order dated 27/04/2022 passed by learned Munsif 1st, Saran at Chhapra in Eviction Suit No. 13/16/Reg. No. 25/16 filed by the respondent-plaintiff by which the prayer of the petitioner to construct an iron gate in North and East of the tenanted premises has been rejected.

Learned senior counsel for the petitioner submits that learned trial court has refused to exercise his jurisdiction in the eviction suit on the ground that under Section 10 (1) & (2) of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982 {hereinafter referred to as the “B.B.C. Act”} the power to grant amenities to the tenant has been given to the Rent Controller i.e. the Sub Divisional Officer. Learned counsel refers to Section 10 (1) & (2) of the B.B.C. Act and submits that sub section (2) stipulates that if the landlord has contravened the provisions of sub-section (1) then only the Rent Controller will have the jurisdiction to restore the amenities enjoyed by the tenant but in the present case Section 10 (1) of the B.B.C. Act is not attracted as amenities to the tenant -petitioners has not been cut off or withheld by the respondent-plaintiff. He next submits that the word “amenities” has not been defined in the B.B.C. Act, and as



such, the learned trial court has failed to exercise its jurisdiction vested in it and has committed material irregularity.

I have heard learned senior counsel for the petitioners and gone through the impugned order. It transpires that in the suit for eviction filed by respondent-plaintiff a petition has been filed by the petitioners seeking permission to construct iron gate in the suit premises on their own cost but the same has been contested and denied by the plaintiff -respondent. Accordingly, contest and denial of the plaintiff / respondent to the prayer of the petitioner to construct iron gate prima facie amounts to withholding of amenities by the landlord -plaintiff and as such the provisions of Section 10 (1) & (2) of the B.B.C. Act is attracted in the facts of the case and the rent controller in such matters has the jurisdiction as per B.B.C. Act under Section 10(2). Accordingly, I do not find any material irregularity or infirmity in the impugned order holding that petitioner has remedy before the Rent Controller (i.e. S.D.O.).

I do not find any merit in this petition. Accordingly the same is rejected.

(Anil Kumar Sinha, J)

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