

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.890 of 2018

Prakash Kumar, son of Late Bhola Prasad, resident of Mohalla Naya Bazar
(Thana Road), Post Siwan, Police Station Siwan Town, District Siwan

... .. Petitioner/s

Versus

Pratap Kumar, son of Late Bhola Prasad, resident of Mohalla Naya Bazar,
Post Siwan, Police Station Siwan Town, District Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar
For the Respondent/s : Mr.Chandra Kant

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

5 22-08-2022 Heard learned Counsel for the parties.

Learned Counsel for the petitioner submits that the petitioner is the defendant in Eviction Suit No. 19 of 2014, filed by his full brother (plaintiff-respondent) for eviction of the petitioner-defendant from the suit premises, which is a shop.

The facts pleaded in the plaint by the plaintiff-respondent is that partition of the joint family property took place in the year 2014 and the suit property fell in the share of the plaintiff-respondent, in which the petitioner-defendant (full brother of the plaintiff-respondent) was inducted as a tenant on a monthly rental of Rs. 3,000/-.

The petitioner-defendant filed written statement



denying the statement made in the plaint, stating therein that the partition between the co-sharers and the brothers took place in the year 1984 and the suit property fell in the share of the petitioner-defendant.

In this background, the plaintiff-respondent filed a petition before the learned Court below for conversion of the eviction suit into a regular title suit and at the same time, the defendant-petitioner filed a petition for deciding the issue of maintainability of the eviction suit.

In other words, the petitioner-defendant was also of the view that eviction suit is not maintainable and a regular title suit be instituted keeping in view the question of title raised by both the parties.

The learned Trial Court, by the order, dated 06.09.2017, has converted Eviction Suit No. 19 of 2014 into a regular title suit (Title Suit No. 19 of 2014).

Having heard learned Counsel for the parties and taking into consideration the fact that both the parties have claimed that eviction suit should be converted into a regular title suit and by the impugned order, the learned Trial Court has converted the eviction suit into a regular title suit, I do not find any cogent ground to interfere with the impugned order.



This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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