

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.45 of 2021

=====

Md. Razaul Hoda @ Razaul Hoda @ Nanhnu Razaul Hoda, S/o Samasul Hoda, Resident of Village Lohra, P.S. and Dist. Jamui.

... .. Petitioner/s

Versus

1. Md. Fazal Gani, Son of Dr. Shaukat Ali, Resident of Village-Mahisauri, P.S. and Dist. Jamui.
2. Dr.Md. Manuawar Ali, Son of Dr. Shaukat Ali, Resident of Village-Mahisauri, P.S. and Dist. Jamui.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan Singh
For the Respondent/s : Mr.Ram Naresh Ray

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 11-07-2022 Heard learned counsel for the petitioner.

2. The petitioner is aggrieved by the impugned order dated 21.01.2020 passed in Eviction Suit No. 03/2009 by which the learned court below has rejected the application filed by the petitioner/plaintiff for bringing some of the rent receipts issued by Md. Sajjad Asger @ Hasib Mallik in favour of the petitioner for the suit/tenanted premises as exhibits.

3. Learned counsel for the petitioner submits that in a suit for eviction the petitioner/tenant has denied the tenant-landlord relationship and his written statement has established the case that Md. Sajjad Asger @ Hasib Mallik is the landlord of the petitioner and not the plaintiff/respondents and accordingly, he filed an application for bringing on record the rent receipts



issued by his landlord, Md. Sajjad Asger @ Hasib Mallik and the learned trial court by rejecting the same has committed jurisdictional error and material irregularity inasmuch as petitioner/tenant shall seriously be prejudiced if the rent receipts are not permitted to be exhibited in the suit.

4. On the other hand, learned counsel for the landlord-tenant submits that Exhibit 3/C filed by the plaintiff/landlord which has been annexed as Annexure- C to the counter affidavit filed in the present Misc. application is a tenancy agreement between the parties in which the respondent/plaintiff is the landlord and the petitioner is a tenant and accordingly, as per Section 116 of the Evidence Act, petitioner cannot challenge the title of the landlord.

5. He further submits that a suit was filed between the father of plaintiff/landlord and Md. Sajjad Asger @ Hasib Mallik for declaration of title and confirmation of possession in which the learned trial court has passed the decree in favour of the father of the landlord-respondent-plaintiff on 24th of January 2013 in Title Suit No. 84/2008 pertaining to the suit land. He further submits that after closure of the evidence of both the parties and at the stage of argument of the defendant/tenant, the tenant filed an application before the trial court with a prayer to



exhibit certain rent receipts allegedly issued by Md. Sajjad Asger @ Hasib Mallik. The learned trial court has rightly rejected the same on the ground that in order to delay the progress of the suit, the application for bringing on record the rent receipt has been filed by the defendant/tenant.

6. I have learned counsel for the parties and perused the material on record including the impugned order. It appears that the suit was filed for eviction in the year 2009 and the suit is at the stage of argument. The argument of plaintiff/landlord has already been completed and part argument of defendant/tenant was going on. At this stage, the tenant has sought to introduce the alleged rent receipts issued by Md. Sajjad Asger @ Hasib Mallik claiming to be his landlord which the learned trial court has considered and has come to the conclusion that the evidence of the petitioner/defendant has already been closed and the suit is fixed for argument of the defendant. Accordingly, in my opinion, the learned trial court has rightly rejected the application filed by the petitioner/tenant after closure of the evidence of both the parties and at the stage of argument of the suit. I am also of the view that in order to delay the disposal of the suit the defendant/tenant filed a petition for bringing on record the rent receipts which he could have



filed initially at the time of adducing evidence.

7. Accordingly, I find that the court below has not committed any material irregularity and jurisdictional error while passing the impugned order. Hence, this application stands rejected.

(Anil Kumar Sinha, J)

perwez

U			
---	--	--	--

