

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.197 of 2018

=====

Ramchandra Ram Son of late Saukhi Ram, Resident of Village Oraiya, P.S. Jhajha, District- Jamui.

... .. Petitioner/s

Versus

Savitri Devi @ Rameshwari Devi Wife of Ramautar Ram, Resident of Village Oraiya, P.S. Jhajha, District- Jamui.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dhanendra Chaubey, Advocate Mr. Pankaj Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Umesh Prasad, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
CAV JUDGMENT

Date : 10-10-2022

This Civil Revision application has been preferred by defendant petitioner under Section 14 (8) of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred to as the 'Act') against the judgment and order dated 22.11.2018 passed by learned Additional Munsif-II, Jamui in Eviction Suit No. 2/2004 whereby the defendant has been directed to vacate the suit premises and deliver the same to the plaintiff within 60 days.

The plaintiff's case in brief is that she used to reside in a house made of Mud. She purchased a house consisting of four bed rooms on 20.12.2001. The defendant-petitioner was in service in Dhanbad came to the village Oraiya after retirement in 2002 and on his request the said house was let out on rent on



payment of monthly rent of Rs.100/-. There was no written contract. Defendant petitioner used to pay rent which was entered in her private diary. Later on, defendant constructed his own house of 7-8 rooms. Kachha house of the plaintiff became non-residential then she requested the defendant to vacate the tenanted premises on the ground of personal necessity as she has no other house to live but defendant neither vacated the suit premises nor paid rent for six months then the plaintiff filed the aforesaid eviction suit.

The defendant case is that husband of plaintiff is his brother-in-law (Sala) and he purchased the suit land by registered sale deed from the husband of the plaintiff (Ramavtar Ram) over which he has constructed his own house out of fund received from post-retiral benefits and is residing over the same since 11.03.1987 in the capacity of independent title holder. Accordingly, the defendant-petitioner completely denied a landlord tenant relationship and prayed to dismiss the suit.

The Learned Trial Court having considered the evidence, came to the finding since defendant has accepted that suit house is situated on his purchased land (3 $\frac{3}{4}$ decimal) out of which he had sold 3 decimal on 29.01.2002 in favour of plaintiff, accordingly the claim of plaintiff is proved on the basis



of admission. It is further held that the house which is built up on 2 ¼ decimal in Khata No.64 Khesra No. 970 came in the ownership of the plaintiff and defendant is living as tenant in it and the plaintiff is entitled for decree of eviction and accordingly decreed the suit in favour of the plaintiff and dismissed the counter claim of the defendant and directed the defendant to vacate the said suit property within 60 days.

Heard learned counsel for both the parties.

Learned counsel for the petitioner submits that the Learned Court below has decided the complex question of title involved in suit for eviction which is not permissible in eye of law. The documentary evidences on behalf of defendant have not been considered by the Court below. It is further submitted that the plaintiff has failed to establish that the petitioner ever paid rent of her as such the learned Court below should have recorded the finding that there is no landlord tenant relationship between the parties. Learned counsel for the petitioner further submits that the scope of enquiry before the Courts below was limited to the question as to whether the grounds for eviction of the defendant have been made out, under the Act or not. The question of title of the parties to the suit premises is not relevant. He has referred and relied on the judgment of Hon'ble



Supreme Court Judgments in **Rajendra Tiwary VS. Basudeo Prasad** reported in (2002) 1 SCC 90 and in **Tribhuvanshankar Vs. Amrutlal** reported in (2014) 2 SCC-788.

In **Rajendra Tiwary Vs. Basudev Prasad** (Supra)

the Hon'ble Supreme Court in Paragraph-7 observed:-

“7. It is evident that while dealing with the suit of the plaintiffs for eviction of the defendant from the suit premises under Clause (c) and (d) of Sub-section (1) of Section 11 of the Act [The Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982], Courts including the High Court were exercising the jurisdiction under the Act which is a special enactment. The sine qua non for granting the relief in the suit, under the Act, is that between the plaintiffs and the defendant the relationship of ‘landlord and tenant’ should exist. The scope of enquiry before the Courts was limited to the question: as to whether the grounds for eviction of the defendants have been made under the Act. The question of title of the parties to the suit premises is not relevant having regard to the width of the definition of the terms ‘landlord’ and ‘tenant’ in clause (f) and (h) respectively of the Section 2 of the Act.”

The Hon'ble Supreme Court in **Tribhuvanshankar Vs. Amrutlal** (Supra) observed that in a suit for eviction based on Landlord tenant relationship the Court has only to decide whether defendant is the tenant of the plaintiff or not, though the question of title if disputed, may incidentally be gone into, in connection with primary question for determining the main question about the relationship between the litigating parties. It was further clarified that the Court can decide the issue to title if



a tenant dispute the same and the only purpose to see whether the **denial** of title of the landlord by the tenant is **bonafide** in the circumstances of the case.

The Constitution Bench in **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh** (2014) 9 SCC 78 approved the observation in earlier judgment **Rukmini Amma Saradamma VS. Kalyani Sulochanna & Ors.** (1993) 1 SCC 499 and held that finding of fact recorded by court/authority below, if perverse or has been arrived at without consideration of material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. The High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to reappraise or reassess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a Court of first appeal. Where the High



Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity. Interfering with the finding of fact without any perversity or misappreciation of evidence by the Court/Authority below would clearly be outside the High Court's ken in its revisional jurisdiction.

Learned counsel for the petitioner has not pointed out any perversity or misappreciation or non-consideration of material evidence by the learned Court below in arriving the aforesaid findings.

In this case, the learned Court below has found that suit house is situated on purchased land of plaintiff from defendant and defendant is living as tenant in the suit property and the learned counsel for the plaintiff has not been assail the aforesaid finding. On perusal of judgment, it appears that the Court below has not committed any illegality or irregularity while passing the said judgment. The judgment of **Tribhuvan Shankar Vs. Amrutlal** (Supra) which has been referred and relied upon by the learned counsel for the petitioner as stated above clarified that the Court can decide the issue to title if a tenant dispute the same and only purpose to see whether the denial of title of landlord by tenant is bonafide in the



circumstances of the case.

The Trial Court considered the evidence of DW-1 &3 that Ramchandra Ram had constructed house after purchase from Ramotar Ram and also considered the evidence that defendant has accepted that from his purchased land he sold 3 decimal to plaintiff.

This Court cannot reappreciate the evidence in revisional jurisdiction when the findings are based on appreciation of evidence. The finding in the instant case, in my view, does not suffer from any legal infirmity, on the other hand, it is based on cogent reasons supported by evidence on record.

Thus, there is no merit in this Civil Revision and it is, accordingly, dismissed with no order as to cost.

(Sunil Dutta Mishra, J)

kamlesh/-

AFR/NAFR	NAFR
CAV DATE	17.08.2022
Uploading Date	10.10.2022
Transmission Date	NA

