

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.845 of 2022

Surendra Mohan Gupta Son of Late Om Prakash Gupta, Resident of Mohalla-Abulash Lane, Machhua Toli under Kadam Kuan Police Station, Town and District of Patna, carrying on business of Surgical Equipment in the name and style of M/s Patna Surgical Works of Adhok Raj Path, Police Station- Pirbahore, District- Patna, Opposite P.M.C.H. Indian Citizen.

... .. Petitioner/s

Versus

1. Vijay Bhasin Son of Late Puran Chand Bhasin, Resident of Mohalla- Rajendra Nagar, Road No. 6, Police Station- Kadamkuan, District- Patna- 800016, Smt. Anita Bhasin Plaintiff No. 2 represented through her husband Sri Vijay Bhasin holding power of Attorney dated 18.08.1985 by profession business Indian Citizen.
2. Anita Bhasin Wife of Sri Vijay Bhashin, Resident of Mohalla- Rajendra Nagar, Road No. 6, Police Station- Kadamkuan, District- Patna- 800016, Smt. Anita Bhasin Plaintiff No. 2 represented through her husband Sri Vijay Bhasin holding power of Attorney dated 18.08.1985 by profession business Indian Citizen.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 22-12-2022 Title Eviction Suit No. 09/2010 was filed by the Respondents/plaintiff for eviction of the petitioner from the suit premises which is a shop situated at Ashok Rajpath, Patna on the ground of personal necessity and default in payment of rent.

2. Petitioner/defendant is aggrieved by order dated 22.09.2017 by which the defendant's evidence has been closed.

3. Learned counsel for the petitioner submits that on 22.09.2017 when the case was called out, the petitioner sought an adjournment on the ground that he would challenge the order



dated 22.07.2017 in the High Court but the prayer of the petitioner was rejected and the evidence of the defendant has been closed. He next submits that earlier also an eviction suit was filed by the respondents/plaintiff bearing Title Eviction Suit No. 18/2000 wherein mother of Respondent No. 1 was one of the plaintiffs but the suit was subsequently, withdrawn. The respondents are in the habit of filing eviction suit on frivolous grounds and the present suit has also been filed on the composite ground of personal necessity as well as default in payment of rent.

4. I have heard learned counsel for the petitioner. It is an admitted position that eviction suit has been filed by respondents/plaintiff on the ground of personal necessity and the other grounds. From perusal of the impugned order, it appears that the evidence of the plaintiff was closed sometime in the year 2012. Since 16.01.2013, the suit is pending for the evidence of the defendant. The defendant witness no.9 was examined and cross-examined on 27.01.2016. Since 15.02.2016, the defendant has not produced any witness despite having been given last chance to produce his witnesses. The learned trial court taking into consideration the delaying tactics of the petitioner and the fact that the suit is fixed for defendant's



evidence since 16.01.2013, the learned trial court has closed the evidence of the defendant.

5. Taking into consideration the fact that the suit is for eviction on the ground of personal necessity as well as on other grounds and despite sufficient time being given to the petitioner, he did not examine himself as witness and on 22.09.2017 when the case was fixed for evidence, the petitioner sought time to approach the High Court to challenge the order dated 22.07.2017 and did not produce his witness on that date for examination/cross-examination, I am of the opinion that the conduct of the defendant/petitioner appears to be unfair with an intention to delay the disposal of the eviction suit in abuse of the process of court. Accordingly, I do not find any reason to interfere with the order impugned.

6. In the result, this application is dismissed.

(Anil Kumar Sinha, J)

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