

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.23 of 2023

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Rupesh Kumar Baidh, Son of Late Bechan Lal Baidh, Resident of Mohalla-
Patel Babu Road, P.S. Kotwali, District- Bhagalpur.

... .. Petitioner/s

Versus

Md. Aiyub Alam, Son of Abdul Hamid, Resident of Mohalla- Mojahidpur,
East Gurhatta, P.S. Mojahidpur, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 05-10-2023

Heard learned counsel for the petitioner.

2. Despite service of notice, no one is present on
behalf of the opposite party.

3. This Civil Revision application has been filed for
setting-aside the order dated 09.10.2018 and decree dated
05.11.2018 in connection with Title Eviction Case No. 13 of
2016 passed by the learned Munsif IInd (Sadar), Bhagalpur.

4. The opposite party no. 1 filed Eviction Suit No. 13
of 2016 against the petitioner for vacation of shop in question
which was given to the petitioner at Rs. 2300/- per month
through registered deed dated 31.01.2013 for three years from
01.02.2013 to 31.01.2016. The Eviction Suit was filed on
01.07.2016 in which summon was issued on petitioner and
despite the valid service of notice no one appeared on behalf of
the petitioner, accordingly, ex-parte hearing was fixed vide order



dated 16.01.2017. The petitioner appeared in the case on 04.07.2017 and filed recalling of said ex-parte proceeding order which was not moved and was dismissed. Thereafter, petitioner filed second application for recall on 13.12.2017 which was dismissed for non-prosecution on 14.09.2018. Similarly, subsequent applications for recall 26.06.2018, 02.08.2018, 03.10.2018, 06.11.2018, 06.09.2018, 04.10.2018 were dismissed for non-prosecution. The suit was proceeded ex-parte. The trial court held that the plaintiff/ O.P. has proved that petitioner is a tenant on the basis of registered rent agreement which was completed on 31.01.2016 and after the said period the plaintiff is entitled for eviction of suit premises and accordingly passed the eviction order dated 09.10.2018.

5. Learned counsel for the petitioner submits that the petitioner had filed the applications for recall of ex-parte order but his counsel had not moved the said application and there is no fault on behalf of petitioner. The petitioner is a poor man and has always ready to pay rental amount but without his fault the landlord want to evict from the shop which is not sustainable in Law. He also submits that there is violation of Principle of Natural Justice. During the argument, he has submitted that petitioner has already vacated the shop in question.



6. From perusal of the impugned order, it appears that the Title Eviction Suit was filed by the O.P. under Section 11 (1) (e) of Bihar Building (Lease, Rent and Eviction) Control Act, 1982 on the completion of rent period and the landlord-tenant relationship between O.P. and petitioner is not in dispute. The learned court below has passed reasoned order on the basis of evidence and from the facts and circumstances, it cannot be said that principle of natural justice has been violated.

7. Having heard learned counsel for the parties and on perusal of the record, it appears that there is no jurisdictional illegality in the impugned order which and the same requires no interference by this Court.

8. Accordingly, this Civil Revision petition is dismissed.

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.10.2023
Transmission Date	

