

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL REVISION No.12 of 2018**

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Satyendra Ram @ Dr. Satyendra Kumar @ Satendra Rai son of Ramashish Das resident of village Birauli Khurd, P.S. Pusa, District Samastipur.

... .. Petitioner/s

Versus

- 1.1. Pawan Kumar Singh, Son of Late Chhedi Lal Singh, Resident of Village- Marsand, P.S.- Pusa, District- Samastipur.
- 1.2. Rajiv Ranjan, Son of Late Chhedi Lal Singh, Resident of Village- Morsand, P.S.- Pusa, District- Samastipur.
- 1.3. Raj Bati Devi, Wife of name not known and Daughter of late Chhedi Lal Singh, Resident of Village- Morsand, P.S.- Pusa, District- Samastipur.
- 1.4. Rekha Devi @ Urmila Devi, Wife of name not known and Daughter of Late Chhedi Lal Singh, Resident of Village- Morsand, P.S.- Pusa, District- Samastipur.
- 1.5. Manju Kumari, Daughter of late Chhedi Lal Singh, Resident of Village- Morsand, P.S.- Pusa, District- Samastipur.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Ramesh Kumar Choudhary |
| For the Respondent/s | : | Mr.Subhash Kumar Mishra   |

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY**

CAV ORDER

20     13-12-2023

Heard the parties.

2. The present revision has been preferred under Section 14(8) of the Bihar Building (Lease, Rent and Eviction Control) 1982, against the judgment and order dated 28.11.2017 passed by Civil Judge (Junior Division) First-Munsif Ist, Samastipur whereby the learned court below decreed the suit for eviction on the ground of personal necessity of the landlord.

3. The premises, sought to be evicted on the basis of personal necessity of the plaintiff, is a Khaprail room measuring



15 ft. x 12 ft., equal to 180 sq.ft.

4. The plaintiff's case is that he let out that room to the defendant (petitioner) at the monthly rent of Rs. 250/-. The plaintiff's son, who was unemployed was in need to open a General-cum-Cosmetic store in that premises. As such, the plaintiff was in need of the entire premises. He requested the defendant to vacate the premises, to which, he denied and having no option, the plaintiff instituted the suit for eviction. When the plaintiff asked the petitioner to vacate the premises, the petitioner not only refused to vacate the land but also, stopped the payment of the rent. The defendant denied the claim of the plaintiff and also denied the relationship of the landlord and the tenant. The defendant also claimed that land through adverse possession. As per his written statement, the plaintiff's father, who was purchaser of that land requested the defendant to look after that land and since then, after erecting a hutmat like house over that land he started residing there. Later on, he started an Animal Treatment Center. The defendant also mentioned that there was an agreement to sale between the defendant and the father of the plaintiff and the defendant had paid Rs. 60,000/- to father of the plaintiff, who executed an agreement to sale, in favour of the defendant.



5. The learned trial court did not find the claim of adverse possession of the defendant nor his title was found through the agreement to sale. The existence of relationship of the landlord and the tenant was found and vide impugned order, the learned trial court decreed the suit of the plaintiff and directed the eviction of the defendant from the premises on the basis of personal necessity of the landlord.

6. Learned counsel for the petitioner submitted that the learned trial court committed gross illegality, in not examining the issue of partial eviction. He submitted further that it is the mandate of law that an issue of partial eviction must be framed and this issue must be decided after giving opportunity to both the parties. If the need of the landlord may be satisfied by the partial eviction, the learned trial court shall order the partial eviction of the premises, in question.

7. In support of his submission the learned counsel has relied upon two decisions of this Court, which are as follows:-

- (i) Bhola Prasad Sah & Ors. Vs. Ram Dhani Prasad & Ors. reported in 2004 (1) PLJR, 462 and*
- (ii) Krishna Murari Prasad Vs. Mitar Singh reported in BBCJ 1994 (SC) 37.*

8. By relying these two decisions, learned counsel has submitted that it is imperative on the trial court to decide the



issue of partial eviction.

9. On the other hand, learned counsel for the opposite party submitted that the issue of partial eviction was taken into consideration by the learned court below and after examining this fact, the learned trial court held that the partial eviction would not fulfill the necessity of the landlord.

10. From perusal of the impugned judgment and order, it appears that in paragraph 15, the learned court below has discussed the issue of partial eviction and it has been mentioned in that paragraph that until and unless the entire premises is vacated, the need of the landlord could not be catered.

11. From perusal of paragraph 15 of the impugned order, it appears that the fact of partial eviction of the premises was taken into account by the court below.

12. I do not find any illegality, irregularity or impropriety in the impugned order.

13. Accordingly, the Civil Revision is dismissed.

**(Nawneet Kumar Pandey, J)**

Nirmal/AKV

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