

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1259 of 2017**

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Shambhu Prasad, Son of Late Ram Charitar, resident of Mohalla- Padri Ki Haveli, Guthatta, Madhu Bhawan, P.S.- Khajekalan, District- Patna.

... .. Petitioner/s

Versus

Shambhu Saran Prasad, Son of Late Keshava Prasad, resident of Mohalla- Balkishunganj, Police Station- Alamganj, in the town and District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Tiwary, Advocate
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 01-07-2024

Today, the matter has been listed under the heading ‘For Orders (On Petitions)’. Perusal of record shows an I.A.No.8664 of 2018 has been filed by the petitioner for restraining the respondent from demolishing the tenanted premises in which the petitioner resides.

2. Heard learned counsel for the petitioner and I intend to dispose of the present petition at this stage itself.

3. The instant petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 03.04.2017 passed in Title Eviction Suit No.09/2015 by the learned Munsif, Patna City, Patna whereby and whereunder the petitioner was directed to pay rent of house as Rs.2100/-per month and the dues rent between the date of filing of suit till the



date of order.

4. It has been submitted by the learned counsel for the petitioner that there is no consideration of defence taken by the petitioner in the impugned order. The petitioner as a tenant has taken a plea that he gave certain share certificate to the respondent in lieu of rent and adjustment of the amount mentioned in the share certificate should have been given to the petitioner. But this fact was not taken into consideration by the learned trial court while passing the impugned order. The learned counsel further submits that the petitioner has given certain amount of money as advance to the plaintiff/respondent, but unfortunately the said fact could not be brought on record.

5. Perused the record.

6. I find the argument advanced by the petitioner to be specious. Perusal of record shows in the rejoinder to the application filed for deposit of rent, the petitioner as a tenant has taken a plea that he has entered into some agreement of sale for purchase of premises and has also stated in vague terms that towards consideration amount, he gave certain share certificates to the plaintiff/respondent and the value of the share certificate has not been adjusted while considering the outstanding rent. I think the petitioner without any substantive material cannot be



allowed to frustrate the proceeding of eviction suit which should be disposed of in time bound manner. It also appears from the record that the petitioner was an employee of State Bank of India and till his retirement, the rent was being paid by his employer-State Bank of India and, thereafter, the petitioner has taken a plea that he gave some share certificate to the plaintiff/respondent which should be adjusted towards outstanding rent. At the same time, it has also been taken a defence that the petitioner has been assured by the plaintiff/respondent that in lieu of the share certificate, the plaintiff/respondent would transfer his premises for the consideration amount paid in the form of share certificates. Such submission could not inspire confidence of the Court in absence of proper document or evidence. Further, the learned trial court has considered this fact while passing the impugned order and held in specific term that this plea is matter of trial for which evidence is required to be adduced by the parties and only thereafter the court can come to the right conclusion. Therefore, the submission that the learned trial court has not considered the contention of the petitioner while passing the impugned order is incorrect.

7. In the light of the discussion made so far and the



facts and circumstances of the case, I do not find any infirmity in the impugned order dated 03.04.2017 and the same is hereby affirmed.

8. Accordingly, the instant petition stands dismissed.

9. I.A.No.8664 of 2018 also stands dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.07.2024
Transmission Date	NA

