

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.239 of 2021

Shyam Sundar Tibrewal S/o Late Biharilal Tibrewal R/o Naya Bazar, Old Hospital Road, P.O. and P.S. and District- Lakhisarai, 811311, Bihar.

... .. Petitioner/s

Versus

1. Asha Devi W/o Late Suresh Prasad R/o of Cloth Shop, Naya Bazar, Pachna Road, Near Hazi Sabzi Mandi, P.O. and P.S. and District- Lakhisarai, 811311, Bihar.
2. Kanhaiya Prasad S/o Late Suresh Prasad R/o of Cloth Shop, Naya Bazar, Pachna Road, Near Hazi Sabzi Mandi, P.O. and P.S. and District- Lakhisarai, 811311, Bihar.
3. Sunita Devi D/o Late Suresh Prasad R/o of Cloth Shop, Naya Bazar, Pachna Road, Near Hazi Sabzi Mandi, P.O. and P.S. and District- Lakhisarai, 811311, Bihar.
4. Anita Devi D/o Late Suresh Prasad R/o of Cloth Shop, Naya Bazar, Pachna Road, Near Hazi Sabzi Mandi, P.O. and P.S. and District- Lakhisarai, 811311, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nikhil Kumar Agrawal, Adv.
Ms. Aditi Hansaria, Adv.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

7 13-11-2024

Heard learned counsel for the petitioner.

2. Despite service of notice, no one appears for the respondents.

3. The petitioner is aggrieved by the order dated 06.02.2021 passed by the learned Munsiff- 1st, Lakhisarai in Title Eviction Suit No. 01 of 2006 whereby and whereunder, the application dated 22.01.2019 filed by the petitioner for collecting the rent amount to the tune of Rs. 78,800/- which was deposited in Nazarat, was rejected.

4. Learned counsel for the petitioner submits that in



Title Eviction Suit No. 01 of 2006, the decree was passed in favour of the petitioner- plaintiff but in Civil Revision No. 73 of 2012, this Court set aside the decree of the Title Eviction Suit No. 01 of 2006 and the order was upheld till the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 19050 of 2013 vide order dated 22.08.2014. Learned counsel, however, submits that the order dated 06.02.2021 has been passed on misappreciation of the facts and the decisions of this Court as well as the Hon'ble Supreme Court. While setting aside the decree in Title Eviction Suit No. 01 of 2006 by the order dated 11.03.2013 by this Court in Civil Revision No. 73 of 2012, the petitioner was held to be a rent collector and thus, landlord within the meaning of Section 2(f) of the Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982 (hereinafter referred to as 'the Act of 1982'). However, the petitioner was not found to be the owner who could put claim of eviction under the provisions of Section 11(1)(c) of the Act of 1982. It was held that if a person was claiming possession on the ground of his reasonable requirement, such person was supposed to prove that he was landlord in the sense that he was the owner of the building and has a right to occupy the same in his own right. At the same time, learned Single Judge held that a mere rent



collector though may be included in the expression landlord in its wide amplitude, cannot be treated as a landlord for the purpose of Section 11(1)(c) of the Act of 1982. Learned counsel further submits that in any case, the petitioner has been held to be a rent collector, thus an agent and he would come under the meaning of landlord for all practical purposes, except for seeking eviction under Section 11(1)(c) of the Act of 1982. But this fact was missed by the learned trial court when it rejected the application seeking payment of the rent deposited with it. Learned counsel further submits that the Hon'ble Supreme Court held that as the petitioner was not the legal heir of the original owner, the petitioner cannot get a decree for eviction on the ground of personal necessity and the order of the High Court was upheld. But there is no finding that the petitioner was not the rent collector. Learned counsel further submits that no other person has claimed the rent deposited in the Nazarat of the learned Munsiff, Lakhisarai and the petitioner has subsequently purchased the premises and has also become owner of the said premises. The petitioner is ready and willing to furnish indemnity bond in case some other person claims the deposited rent and such claim is upheld. Thus, learned counsel submits that the impugned order is not sustainable and the same needs to



be set aside.

5. I have given my thoughtful consideration to the submission of the learned counsel for the petitioner and also to the facts and circumstances of the case. Apparently, the claim of the petitioner is based on the fact that he has been held to be a rent collector on behalf of the original landlord. Obviously, the petitioner is the agent of the original landlord. It has also come on record that the original landlord is no more and if the principal who appointed the petitioner as his agent to collect the rent, has died, the agency would naturally come to an end. So, on this account, the petitioner cannot claim himself to be a rent collector on behalf of his principal, the original landlord. If the petitioner cannot be considered as a rent collector, then he would not come under the definition of landlord under Section 2(f) of the Act of 1982 and cannot have claim over the rent deposited before the learned trial court.

6. So far as the submission by the learned counsel for the petitioner about petitioner becoming landlord after purchasing the suit property is concerned, the same is a new fact and the petitioner can take up the issue in his new capacity before the learned trial court for release of the rent deposited.

7. In the light of aforesaid discussion, I do not find



any infirmity in the impugned order and the same is affirmed.
However, the petitioner is at liberty to take up the issue of
release of the rent on the basis of subsequent event and the
learned trial court will give due opportunity of hearing to the
petitioner and pass a reasoned order.

8. With the aforesaid direction, the application stands
disposed of.

(Arun Kumar Jha, J.)

sadique/-

U			
---	--	--	--

