

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.170 of 2023

1. Sheela Devi W/o Ranjeet Sao, Resident of Kazipur/Machua Toli, (Anup Lane), P.S. - Kadamkuan, District - Patna - 800004.
2. Mala Devi, W/o Santosh Kumar and D/o Ranjeet Sao, Resident of Bakipur GorakhFatuha, In Front of Hero Show Room, Main Road Fatuha, P.S. - Fatuha, District - Fatuha, Pin Code – 803201 and also R/O Kazipur/Machua Toli, (Anup Lane), P.S. - Kadamkuan, District - Patna - 800004
3. Kumari Jayanti @ Gyanti Devi (Wrongly mentioned in plaint as Gajanti Kumari) D/o Ranjeet Sao, Resident of Kazipur/Machua Toli, (Anup Lane), P.S. - Kadamkuan, District- Patna - 800004.
4. Anupma Kumari @ Anupama Devi, W/o Shayam Sunder Kumar, D/O Ranjeet Sao, Resident of Kazipur/Machua Toli, (Anup Lane), P.S. - Kadamkuan, District - Patna - 800004.
5. Priyanka Kumari, D/o Ranjeet Sao, Resident of Kazipur/Machua Toli, (Anup Lane), P.S. - Kadamkuan, District - Patna - 800004.
6. Akanchha Kumari, D/o Ranjeet Sao, Resident of Kazipur/Machua Toli, (Anup Lane), P.S. - Kadamkuan, District - Patna.

... .. Appellant/s

Versus

1. Urmila Sinha W/o Rabindra Kumar Sinha, resident of Mohalla - Kazipur, Anup Lane, Machua Toli, P.O. - Bankipur, P.S. - Kadamkuan, District- Patna.
2. Rabindra Kumar Sinha, S/o Late Kamala Prasad, resident of Mohalla - Kazipur, Anup Lane, Machua Toli, P.O. - Bankipur, P.S. - Kadamkuan, District- Patna.
3. Ranjeet Sao, S/o Late Ram Das Sao, Resident of Mohalla - Kazipur, Anup Lane, Machua Toli, P.O. - Bankipur, P.S. Kadamkuan, District - Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Sheela Sharma, Advocate Mr. Shvendra Kumar Roy, Advocate
For the Respondent/s	:	Mr. Alok Kumar Chaudhary, Sr. Advocate Mr. Devi Das Srivastava, Advocate Mr. Kulanand Jha, Advocate Mr. Rakesh Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL JUDGMENT

Date : 25-07-2025

Heard Ms. Sheela Sharma, learned counsel for the appellants and Mr. Alok Kumar Chaudhary, learned senior counsel for the respondent nos. 1 & 2.



2. This Second Appeal has been filed by the defendants-respondents-appellants against the judgment and decree of reversal passed by the learned First Appellate Court. The matter arises out of Eviction Suit No. 08 of 2011 filed by the plaintiffs-appellants-respondent nos. 1 & 2 under Section 14 of the BBC Act on the ground contained in Section 11(1)(c) and 11(1)(e) and reserve their right to take another remedy on the ground of default in payment of rent. The defendants contested the claim by denying the title of plaintiff no. 1 and further denied the relationship of landlord and tenant between the parties therefore, the question of default in payment of rent does not arise.

3. The eviction suit was dismissed by learned Sub Judge XVII, Patna *vide* judgment and decree dated 29.01.2019 passed in Eviction Suit No. 08 of 2011, which was thereafter challenged by the plaintiffs by preferring Eviction Appeal No. 05 of 2019. Upon hearing the parties and considering the materials available on record, the learned Additional District Judge XVII, Patna *vide* judgment and decree dated 14th March, 2023 passed in Eviction Appeal No. 05 of 2019, set aside the judgment and decree of the learned Trial Court and decreed the suit in favour of the plaintiffs.



4. Aggrieved by the judgment and decree passed by the learned Court of appeal below, the defendant nos. 1 to 6/appellants have preferred the present Second Appeal.

5. On 13.08.2024, the following substantial questions of law were formulated while admitting the appeal:-

I. Whether a decree could be passed in favour of the plaintiff even though the plaintiff failed to establish the relationship of landlord and tenant?

II. Whether the learned Appellate Court has erred in law holding that plaintiffs are entitled for decree of eviction without interfering with the findings of the learned Trial Court that there is no relationship of landlord and tenant?

III. Whether the learned lower Appellate Court misdirected itself that the plaintiffs are owner of the suit premises and deemed to be landlord for the purpose of conducting eviction proceeding without establishing the relationship of landlord and tenant?

IV. Whether the defendant is the tenant of the plaintiff or not, though the question of title, if disputed, may incidentally be gone into, in connection with the primary question for determining the main question about the relationship between the litigating parties?



6. The case of the plaintiffs is that plaintiff no. 1 is owner and landlord of the three storied building constructed over 300 sq ft of land, which was purchased by plaintiff no. 1 for valuable consideration through registered deed of sale dated 02.02.2010. It is further pleaded that plaintiff no. 2 (the husband of plaintiff no. 1) looks after and manages the affairs and properties of plaintiff no. 1, and he is well acquainted with the facts and circumstances of the case and is also competent to depose in the suit. He is also made plaintiff no. 2 in the present suit. It is contended that the aforesaid land consisted of building constructed on the ground floor measuring 200 sq ft, on the first floor 100 sq ft and on the second floor 100 sq ft. It is further contended that at the time of purchase by plaintiff no. 1, the first floor was occupied by defendant no. 1/ respondent no. 3 and his family (defendant 2nd set/appellants). The ground floor was tenanted to Sri Raju Kumar on the monthly rent of Rs. 3000/- per month. The second floor was occupied by one Arjun Prasad and at the request of the plaintiffs, the second floor was vacated by Arjun Prasad however, the tenant of the ground floor namely, Sri Raju Kumar requested the plaintiff for some time to vacate the premises on the ground floor.



7. Plaintiff no. 1 granted time to the said Raju Kumar on lease for a fixed period of 11 months from 15th February, 2010 to 14th January, 2011 on the same monthly rent of Rs. 3000/- per month. Defendant no. 1 also took time for 11 months to vacate the premises in his occupation and agreed to give rent at Rs. 2500/- per month and promised to vacate the first floor by 14th January, 2011. It is further contended that after the purchase, the plaintiff made additions to the Schedule 1 property by adding new construction with a new staircase after demolishing the old staircase on the ground floor. Plaintiff no. 1 constructed 100 sq ft and over the first and second floors constructed 200 sq ft respectively. It is further pleaded that plaintiff no. 1 further undertook the construction of third floor, which is incomplete and has walls only upto 10 ft high. The said construction is yet to be completed. The Schedule 1 property now has construction over the entire 300 sq ft area right from ground floor upto third floor with incomplete construction on the third floor. Upon increase in the area, the tenant Raju Kumar enhanced the rent from Rs. 3000/- to Rs. 3500/- per month, whereas the defendant's rent increased from Rs. 2500/- to 3000/- per month. The premises under the occupation of defendant no. 1 were leased for a fixed period of 11 months as stated above, where he was leaving with his family members as



described in Schedule 2 of the plaint, i.e. the suit premises. It is vehemently pleaded that defendant 1st set paid the monthly rent of the suit premises till 14th August, 2010 and thereafter defaulted in payment of rent, since 15th August, 2010 till the filing of the suit. Hence, defendant no. 1 defaulted in payment of rent for six consecutive months. Plaintiffs requested the defendant no. 1 to vacate the suit premises upon expiry of lease on 14th January 2011 and also requested for payment of the arrears of rent, which defendant no. 1 refused. It is further pleaded that the plaintiffs used to make an endorsement on receipt of monthly rent on a copy retained by defendant no. 1. Hence, the suit for eviction of the defendant is filed on the ground of bonafide personal necessity and the plaintiff no. 1 reserves her right to seek another remedy on the ground of default. The suit premises are also required on the ground of personal necessity for the plaintiff's residence and on the ground of expiry of the fixed term of 11 months. The entire Schedule 1 property was purchased by plaintiff no. 1 from defendant no. 1 on 02.02.2010 through registered deed of sale, which was registered on 06.02.2010. Defendant no. 1 was allowed to continue in possession of the suit premises as fixed term tenant until 14th January, 2011. After expiry of 11 months, the plaintiff on 15th January, 2011 requested defendant no. 1 to vacate the suit



premises and to pay arrears of rent which was refused by defendant no. 1.

8. On summon defendant nos. 1 to 7, including the respondent nos. 3 to 7 and husband of defendant no. 2 appeared and filed written statement. Besides the ornamental objection, the defendants challenged the title of plaintiff no. 1 and also pleaded that there was no relationship of landlord and tenant between the plaintiffs and defendants. It is further pleaded that the property mentioned in Schedule 1 was actually purchased by Sitaram Sao, who was maternal uncle of defendant no. 1 namely, Ranjeet Sao. Late Sitaram Sao was the brother of the grand mother of defendant nos. 3 to 7 and he purchased the property through an auction sale *vide* auction sale certificate dated 27.05.1957. Further, the case of the defendants is that registered deed of relinquishment dated 12.07.1957 was executed by the said Sitaram Sao in favour of his sister Binda Devi and her minor son, Ranjeet Sao (defendant no. 1/respondent no. 3). As such, Binda Devi remained in and continued to have actual exclusive possession of said entire area covered under the sale certificate dated 27.05.1957. It was further pleaded that Binda Devi and her husband Late Ram Das raised permanent and substantial constructions over the entire area quite openly, peacefully and uninterruptedly without any let or



hindrance from any quarter and at any point of time with full knowledge at large.

9. Accordingly, Binda Devi and defendant no. 1/respondent no. 3, Ranjeet Sao, since the date of the said registered deed of relinquishment dated 12.07.1957, both the mother and son defendant no. 1 acquired permanent indefeasible and sovereign right, title and interest being the absolute and exclusive owner of the property holding 16 ana ownership and being in possession. The names of the Binda Devi and Ranjeet Sao were mutated in PMC, Machuatoli, Bankipore and used for payment of holding tax against dues, and property receipts continued to be issued in the name of mother of defendant no. 1. From the year 2003, holding tax has been issued in the name of defendant no. 1 Ranjeet Sao. It is vehemently pleaded that the sale deed dated 02.02.2010 executed by Ranjeet Sao (defendant no. 1/respondent no. 3) in favour of plaintiff no. 1, was under undue influence and in an intoxicated state of mind by maneuvering and over powering defendant no. 1, Ranjeet Sao. The property in question, being evacuee property purchased through auction sale could not have been subject to any sale unless and until due permission was sanctioned by a competent authority, so in view of the aforesaid requirement, the sale deed executed by defendant no.



1 Ranjeet Sao automatically became quite illegal and invalid. Moreover, since the suit property is ancestral property, defendant no. 1, Ranjeet Sao had no exclusive right to sell out the same. All the daughters of Ranjeet Sao had vested right in the said property. It is further contended that defendant no. 6 Priyanka Kumari who holds a lawful Power of Attorney from her father has rightly filed the Title Suit No. 515 of 2010 against the plaintiffs of the present suit before filing of the present eviction suit. The present eviction suit is a counter blast to Title Suit No. 515 of 2010. The defendants reside in the suit premises as a matter of right and not as tenants of the plaintiffs. The defendants have not paid any rent to the plaintiffs nor does any question of same arise in any view of the matter either legally or factually. Hence, no question arises of any so called default in payment of rent since 15.08.2010. Therefore, the eviction suit is not maintainable as there is a title dispute with respect to the property between the plaintiffs and defendants. There is no relationship of landlord and tenant between the parties so as to maintain an eviction suit against the defendants. The defendants, therefore, pray for dismissal of the suit.

10. The pleadings of the parties were considered by the Trial Court and the following issues were settled in the eviction suit.



I. Is the suit as framed maintainable or not?

II. Has the plaintiff got valid cause of action for filing the present suit?

III. Is the Defendant Ranjeet Sao sold the suit house to plaintiff through registered sale deed dt. 02.02.2010?

IV. Has the plaintiff bona fide requirements of the suit house for her personal necessity?

V. Is the defendant entitled to remain in the suit house without making payments of the house rent to landlord/plaintiff?

VI. Is the plaintiff entitled for the reliefs claimed in the eviction suit?

VII. Is the plaintiff entitle to getting the arrears of house rent from the defendant's default?

VIII. Is the plaintiff entitled for any of the relief under law?

11. The Trial Court, on the basis of evidence adduced by the parties and materials on record, held that no evidence has been adduced by the plaintiffs to support their case that there is landlord- tenant relationship between the plaintiffs and defendants and it is also held that before the institution of the eviction suit by the plaintiffs, the defendants had filed the title suit bearing Title Suit No. 515 of 2010 challenging the sale deed dated 02.02.2010.



The essential ingredients of landlord-tenant relationship, which is the basis of any eviction suit, is missing. The plaintiff has the onus/burden to establish the relationship of landlord and tenant, which the plaintiffs failed to do. There is no chit of paper to establish any relationship of landlord and tenant between them. The claim of the ownership on the basis of sale deed dated 02.02.2010 is challenged in Title Suit No. 515 of 2010 which has been instituted prior to the eviction suit. There are many complex questions of title involved in the present suit. The plaintiffs seek decree of eviction simply by showing their title. The plaintiffs have not proved their relationship of landlord and tenant between the plaintiffs and defendants. It is further held that since the plaintiffs have failed to establish any relationship of landlord and tenant between plaintiffs and defendants, the question of personal necessity does not arise and it is further held that plaintiffs are not entitled to any relief. Accordingly, the suit was dismissed.

12. Aggrieved by the judgment and decree dated 29.01.2019 passed in Eviction Suit No. 08 of 2011, the plaintiffs-respondents preferred Title Eviction Appeal No. 05 of 2019. After hearing both the parties, the learned Appellate Court framed points for consideration and determination in the aforesaid appeal which are as follows:-



A. Whether the suit is maintainable in present form?

B. Has the plaintiffs got valid cause of action for filing the suit?

C. Is the plaintiff entitled to a decree for eviction of suit property, and to get arrear of rent?

D. Whether the judgment and decree passed by the Ld. Lower Court, is liable to be confirmed, or set aside?

13. The learned Appellate Court after considering the evidence adduced by the parties and materials on record has held that it is an admitted case that the registered sale deed dated 02.02.2010 executed in favour of appellant no. 1 was challenged by the defendants in Title Suit No. 515 of 2010 which was dismissed by the Trial Court on contest. (Ext. 3). The learned trial court while deciding the issue nos. 5 & 6 in Title Suit No. 515 of 2010, held that the suit land is self acquired property of Ranjeet Sao, who is defendant no. 1 in Eviction Suit No. 08 of 2011 and that the same has been transferred through a sale deed to appellant no. 1, who is plaintiff no. 1. The learned Appellate Court further held that other eviction Suits have been filed by the appellants bearing Eviction Suit No. 14 of 2011 and Eviction Suit No. 20 of 2011. The claim of the appellants in the aforesaid eviction suits was based on the registered sale deed dated 02.02.2010. Both the



suits were decreed in favour of the plaintiffs-appellants by the Court holding that appellants are the landlords of the suit property. It is also mentioned that sale deed dated 02.02.2010 has neither been cancelled nor declared null and void by any competent court, rather in Ext. 3, which is judgment of Title Suit No. 515 of 2010, the sale deed has been declared to be duly executed by Ranjeet Sao of his self acquired property. Hence, the title of the suit premises has been declared by Competent Court. The learned Appellate Court has placed reliance upon the decision of the Apex Court in the case of *M.M. Quasim Vs. Manohar Lal Sharma & Ors* reported in (1981) 3 S.C.R. 367 and has held that the person in whose favour the subject property were allotted would be deemed to be the landlord for the purpose of conducting eviction proceeding. In the present case, Ranjeet Sao had duly executed the registered sale deed in favour of appellant no. 1 and hence, the appellant no. 1 is owner/landlord of the suit premises. So far as the default in payment of rent is concerned, the learned Appellate Court held that no document had been adduced by the plaintiffs to show that what was the rent of suit premises and from when defendants/respondents defaulted in payment of rent. The appellants, in their pleadings, specifically pleaded in the plaint regarding the default of payment of rent and the same was



supported by oral evidence. However, in the absence of any documentary evidence the arrears of rent cannot be decided.

14. The learned lower Appellate Court dealt with the issue regarding personal necessity. The witnesses of the plaintiff supported the claim of plaintiffs on the ground of personal necessity and further supported the claim of the plaintiffs on the point of defendants being tenants under the tenancy of the plaintiffs. The defendants' main objection is with regard to title of the suit land and the case challenging the sale deed in Title Suit No. 515 of 2010, which is sub judice in Appellate Court. The learned Appellate Court has relied upon the decision of the Apex Court in the case of **Prativa Devi (SMT) Vs. T.V. Krishnan** reported in (1996) 5 SCC 353 in which it has been held that landlord is the best judge of the requirements and Courts have no concern to dictate to the landlord as to how and in what manner he should live. Bonafide personal need was a question of fact should not be normally interfered with. It was further held that appellants/plaintiffs are entitled for decree of eviction and that the suit is maintainable and plaintiffs have valid cause of action. Therefore, the defendants are not entitled to remain in the suit house. Accordingly, the impugned judgment and decree dated 29.01.2019 was set aside. The respondents-defendants were



directed to vacate the suit premises mentioned in Schedule II of the plaint and hand over the vacant possession of the same to the appellants-plaintiffs within two months from the date of the order.

15. Ms. Sheela Sharma, learned counsel for the appellants submitted that the present suit was filed for eviction of the defendants on two counts:- (a) default in payment of rent and (b) personal necessity. The eviction suit has been filed invoking the provisions of Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 (in short 'BBC Act'). It is further submitted that the established legal possession governing the eviction suit which is brought within the controls of the aforesaid BBC Act is that there has to be an established landlord-tenant relationship between the plaintiffs and defendants of the case. It is further submitted that no title dispute can be adjudicated in an eviction suit and the title of the landlord claiming eviction should be clear and indisputable. Thus, no title dispute which is shrouded as an eviction suit is maintainable and the recourse left to the parties arising out of such title dispute is to settle that dispute. Reliance has been placed in the case of **Rajendra Tiwari Vs. Basudeo Prasad and Another** reported in (2002) 1 SCC 90 (para 7, 8, 16 & 17) and **Gopal Singh @ Gopal Prasad Vs. Prafulla Chandra Gupta & Ors** reported in 2014 (4) PLJR 555 (para 22 to 26). Learned counsel



further submits that the defendants-appellants and their predecessors in interest have been residing over the property since 1957 and they are continuing in possession of the property till date. Defendant no. 1/respondent no. 3 executed a sale deed dated 02.02.2010 in favour of plaintiff no. 1 which has been challenged by appellant no. 5, who is daughter of respondent no. 3 in Title Suit No. 515 of 2010, which was dismissed on contest.

16. Being aggrieved, appellant no. 5 filed Title Appeal No. 06 of 2020 which is still pending before the learned lower Appellate Court. It is further submitted that the aforesaid suit bearing Title Suit No. 515 of 2010 was filed by appellant no. 5 prior to the present Eviction Suit No. 08 of 2011. It is vehemently submitted that eviction suit under BBC Act is not maintainable since there is no relationship of landlord and tenant between the plaintiffs and defendants. There is a concurrent finding of the courts below that the plaintiffs have not filed any documents to prove that what was the rent of the suit premises and from when the defendants defaulted in payment of rent. Despite that learned lower Appellate Court has failed to appreciate that the definition of word 'landlord' and 'tenant' as defined under Section 2(f) and 2(g) of the BBC Act explicitly uses the word 'rent' as the parameter to ascertain landlord and tenant relationship and therefore in the facts



and circumstances of the present case, there was no landlord-tenant relationship between the plaintiffs and defendants. This vital question has not been considered by the lower Appellate Court. However, learned Appellate Court has contradicted his own finding by holding existence of landlord-tenant relationship only on the basis of being purchaser of the suit property. The question of title of the plaintiffs is sub judice in Title Appeal No. 06 of 2020. The said appeal is continuation of suit.

17. Learned counsel for the appellants further submitted that learned trial court has rightly held that there is no relationship of landlord and tenant between the plaintiffs and defendants. On that score, the suit was dismissed as not maintainable. The lower Appellate Court erroneously interfered in the judgment and decree passed by the trial court without any reason/finding on the point of existence of relationship of landlord and tenant between plaintiffs and defendants. It is well settled law that existence of landlord-tenant relationship is *sine-qua-non* for maintaining a suit for eviction under the BBC Act. In any event, inquiry into title of the plaintiffs is beyond the scope of court exercising jurisdiction under the BBC Act. The scope of the inquiry before the Courts was limited to the question as to whether the grounds of eviction of the defendant have been made out in the BBC Act. The question of



title of the parties to the suit premises is not relevant having regard to the width of the definition of the terms 'landlord' and tenant in clause f and h of Section 2 of the BBC Act.

18. Per contra, learned counsel for the plaintiffs-respondents submitted that the suit property was purchased through registered sale deed dated 02.02.2010 executed by Ranjeet Sao (husband of appellant no. 1 and father of appellant no. 2 to 6) which is self acquired property of Ranjeet Sao and the same has been decided in Title Suit No. 515 of 2010 as well as Eviction Suit No. 14 of 2011 and Eviction Suit No. 20 of 2011 whereby, all the courts have held that respondent 1st set are landlord of the suit property and tenants of Eviction Suit No. 14 of 2011 and Eviction Suit No. 20 of 2011 have already vacated the other parts of the same building and handed over the possession to the plaintiffs-respondents. However, sister of Ranjeet Sao namely, Usha Devi has also filed Title Partition Suit No. 339 of 2022 for her share but when she found that all the property are self acquired property of Ranjeet Sao then she withdrew her case. It is vehemently submitted that appellant nos. 5 filed suit for declaration of her right, title and interest bearing Title Suit No. 515 of 2010 and not for cancellation of sale deed dated 02.02.2010 and the said suit has



already been dismissed so, the question of title of appellants over the suit property does not arise.

19. Learned counsel for the plaintiffs-respondents further submitted that learned Appellate Court has clearly held that plaintiffs had specially pleaded in the plaint regarding the default of payment of rent and the same is supported by oral evidence but in absence of any documentary evidence, the arrears of rent was not decided. However, the suit is only for eviction on the ground of personal necessity under Section 14 of the BBC Act on the grounds containing in Section 11(1)(c) and 11(1)(e) and reserve her right to take another remedy on the ground of default. There is no claim for arrears of rent in the present suit. It is specifically pleaded in the plaint that defendant no. 1 is occupying the first floor of Schedule I property as tenant on a monthly rent of Rs. 3500/- for fixed period of 11 months and living with her family members which is described in Schedule II of the plaint (the suit premises). Defendant 1st set has paid the monthly rent of suit premises to the plaintiffs till 14th August, 2010 and thereafter they have defaulted in payment of rent since 15th August, 2010 till the filing of the suit.

20. Having regard to the submissions made on behalf of the parties and materials available on record as well as impugned



judgment, before deciding the substantial questions of law, it is necessary to deal with the scope of the suit. The present eviction suit is only for eviction on the ground of personal necessity under Section 14 of the BBC Act on the ground contained in Section 11(1)(c) and 11(1)(e) of the Act and plaintiffs have reserved their right to take another remedy on the ground of default in payment of rent. There is no claim for arrears of rent in the present suit. It is specifically pleaded in the plaint that defendant no. 1 is occupying the first floor of Schedule I property as tenant on monthly rent of Rs. 3500/- for fixed period of 11 months and living with her family members including defendant no. 2, who is the wife of the defendant no. 1. The suit premises are required for their residence and on the ground of expiry of 11 months. The entire Schedule I property was purchased by plaintiff no. 1 from defendant no. 1 on 02.02.2010 through registered deed of sale, which was registered on 06.02.2010. Defendant no. 1 was allowed to continue in possession of the suit premises as fixed term tenant till 14th January, 2011.

21. The substantial questions of law having been framed by this court in this appeal is mainly concerned on the point of existence of landlord and tenant relationship between the plaintiffs and defendants. The learned Trial Court has held that there is no



relationship of landlord and tenant between the plaintiffs and defendants and also held that there is no chit of paper to establish any relationship of landlord and tenant between them. Title Suit No. 515 of 2010 (Ext. A) was filed by defendant no. 5 (one of the daughter of defendant no. 1), who is appellant no. 5 for declaring that defendant no. 3(Ranjeet Sao) had got no right to sell away the suit property to defendant no. 1 and 2 plaintiffs of Eviction Suit No. 08 of 2011 have not acquired any legal, valid title and possession over the suit land pursuant to sale deed dated 02.02.2010 executed in favour of defendant no. 1(plaintiff no. 1 of Eviction Suit No. 08 of 2011) and the same be declared illegal, void, ineffective, fraudulent and not at all binding upon the plaintiffs and also for injunction. The suit filed by the appellants is prior to filing of the eviction suit and the matter is sub judice before the Trial Court. Mere purchase of suit property from earlier occupant/vendor of the premises will not automatically make the tenant of the subsequent purchaser in respect of the suit premises while the learned Appellate Court reversed the finding of relationship of landlord and tenant between the plaintiffs and defendants and held that plaintiffs had specifically pleaded in the plaint regarding title of the suit property on the basis of sale deed dated 02.02.2010 executed by defendant no. 1/respondent no. 3



and also plaintiffs pleaded in the plaint regarding the default of payment of rent and the same is supported by oral evidence. Title Suit No. 515 of 2010 (Ext. A) was dismissed by the trial court on contest and the learned trial court has further held that suit land is self acquired property of Ranjeet Sao (defendant no. 1). Other eviction suits bearing Eviction Suit No. 14 of 2011 and Eviction Suit No. 20 of 2011 were filed by the plaintiffs-respondents in both the eviction suits, Plaintiffs have been declared as landlord on the basis of sale deed dated 02.02.2010. The said deed has neither been cancelled nor declared null and void and further held that plaintiffs are owner and landlord of the suit premises. So far personal necessity is concerned, the appellants-plaintiffs in their examination in chief (P.W. 1 & P.W. 2) vide paragraph 3 has stated the need of the suit property for personal use. P.W. 7 and P.W. 8 have also stated about the claim of plaintiffs on the ground of personal necessity. It is further held that all the witnesses on behalf of the plaintiffs have supported the claim of the plaintiffs on the point of sale of suit premises in favour of plaintiffs and decreed the suit in favour of the plaintiffs.

22. On analysis by the learned Appellate Court, it is held that the relationship between the landlord and tenant is proven in a suit for eviction. The definition of 'landlord' and 'tenant' under the



BBC Act had been expressed in the case of **Rajendra Tiwari Vs. Basudev Prasad** reported in **2002 (1) SCC 90**. The Apex court has held that in any event, inquiry into title of the plaintiff is beyond the scope of Court exercising jurisdiction under the Act. That being position the impugned order of the High Court remanding the case to the First Appellate Court for recording finding on the question of title of the parties is unwarranted and unsustainable. It is apparent that in the impugned judgment of Appellate Court, the Court has decided the title of the parties not only on the basis of sale deed but the claim of the plaintiffs as landlord has been accepted in view of dismissal of Title Suit No. 515 of 2010. The entire case of the defendants-appellants is that they denied the title of plaintiffs and also denied that Ranjeet Sao has any right to execute the sale deed in respect of the suit premises. Moreover, the sale deed executed in favour of plaintiff no. 1 has not been cancelled by any competent court. In the case of **Shamim Ara Naz & Anr Vs. Mohammad Quamruddin** reported in **1997 (1) PLJR 526**, this court has held that “*when the learned court below has come to a prima facie finding that the plaintiff established his ownership over the suit premises then the application ought not to have been rejected on the ground that there was no evidence of payment of rent by the defendant to the*



plaintiff or their vendor. It is well settled that in a case where defendant denies the relationship, the court has to examine the material then available and come to a conclusion whether such denial or a dispute as to title of the plaintiff is bonafide or a mere pretence and if the court finds that there is no prima facie merit in the said denial then the defendant can be called upon to make deposit of rent.” In the present case, although the defendants-appellants denied the title of the plaintiffs and claim their right as title holder, the said claim has been dismissed in Title Suit No. 515 of 2010. It is apparent from the record that the suit was filed only for personal necessity on the ground contained in Section 11(1)(c) and 11(1)(e) of the BBC Act. No claim or relief has been sought for arrears of rent. Both the courts erred that the present suit has been filed for eviction on the ground of personal necessity and also default in payment of rent but there is no claim for arrears of rent. On this aspect, the plaintiffs have reserved their right to take another remedy on the ground of default. The question of personal necessity is question of fact which is not usually interfered. So far the finding with regard to personal necessity is concerned, the appellate court has discussed the necessity of the plaintiffs for their residence. After considering the pleadings as well as evidence adduced by them, the relationship of landlord and tenant has been



proved between the plaintiffs and defendants. Further, on the other parts of the purchased property through two other eviction suits, plaintiffs have been declared landlord of the suit premises.

23. In view of the above discussions and the findings, the judgment and decree of the Appellate Court is affirmed and in the facts and circumstances of the case, the substantial questions of law formulated in this appeal are, answered against the appellants.

24. Thus, this Second Appeal has got no merit and accordingly, it is dismissed.

25. The stay of further proceeding in Execution Case No. 405 of 2023 pending before the court of learned Sub-Judge-XVII, Patna, granted vide order dated 13.08.2024 is hereby vacated.

26. Pending interlocutory applications, if any, shall stand disposed of.

(Khatim Reza, J)

Sankalp/-

AFR/NAFR	AFR
CAV DATE	03.04.2025
Uploading Date	26.07.2025
Transmission Date	NA

