

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1071 of 2023**

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Ramakant Sah @ Ramakant Gupta son of Late Shivanath Sah, Resident of
Mairwa Dham, Mairwa Guthni Road, P.S. Mairwa, District-Siwan, Bihar.

... .. Petitioner/s

Versus

Sudhir Kumar Srivastava, son of Late Bharat Prasad Srivastava, Resident of
Village-Sitalpura, P.O. Langerpura, P.S. Mairwa, District-Siwan, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prashant Kumar
For the Respondent/s : Mr.Sunil Kumar Srivastava

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CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

4 14-11-2025 Heard learned counsel appearing on behalf of the

petitioner as well as learned counsel appearing on behalf of

respondent.

2. The present Civil Miscellaneous application has
been filed for quashing and setting aside the order dated
08.09.2023 passed by Ld. Additional Civil Judge (Senior
Division) – XI, Siwan in Eviction Suit No. 18 of 2022
whereby and whereunder the Ld. Court was pleased to
dismiss the application dated 03.06.2023 for recall of the
order dated 19.05.2023.

3. Learned counsel for the petitioner submits that
respondent is a differently abled person and he appeared in
Eviction Suit No. 18 of 2022 on 24.02.2023. On his request,



the case was adjourned for filing his written statement on 24.03.2023 and on subsequent date i.e. 19.05.2023, he was debarred from filing written statement by the impugned order dated 08.09.2023 passed by the Trial Court.

4. Learned counsel for the respondent submits that sufficient time was granted by the Court to the petitioner/defendant but he could not avail the same and failed to file his written statement. Due to this, the Trial Court proceeded and evidence of plaintiff has been exhausted. Learned counsel further submits that Section 14(4) of Bihar Buildings (Lease, Rent and Eviction) Control Act has not been complied with by the petitioner/defendant.

5. It is well settled law that the case should be decided on merit after considering the rival pleadings and arguments of both the parties in any case. Defendant/petitioner is handicap and for this he has annexed Annexure-P/1 showing 45% disability by the doctor.

6. Therefore, for proper and complete adjudication of this case, a chance/opportunity is required to be given for filing written statement alongwith a petition under Section 14(4) of Bihar Buildings (Lease, Rent and Eviction) Control Act subject to payment of cost of Rs. 5,000/- (five thousand)



by the petitioner/defendant to the respondent/plaintiff. The above cost shall be deposited in the account of petitioner/defendant within a period of one month from the date of receipt/production of this order.

7. Accordingly, the instant Civil Miscellaneous application stands disposed of.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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