

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.372 of 2018

Jagdish Prasad Khandelwal @ Jagdish Khandelwal Son of Late Jauharimal, Proprietor of Sanetory House, Sarswati Bhawan, Behind Vikram Hotel, Exhibition Road, P.S.- Gandhi Maidan, District- Patna, residing at Indira Bhawan, 20A, Kasturba Path, North Sri Krishnapuri, P.S.- Patliputra, District- Patna.

... .. Petitioner/s

Versus

Vikash Agrawal Son of Bishambhar Dayal Agrawal, Resident at Sarswati Bhawan, Behind Vikram Hotel, Exhibition Road, P.S. Gandhi Maidan, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rana Ishwar Chandra
For the Respondent/s : Mr. Chandra Shekhar Verma

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
ORAL

Date : 01-08-2022

Heard learned Counsel for the parties concerned.

2. The petitioner is the defendant in Eviction Suit No. 20 of 2010, filed by the respondent, pending before learned Civil Judge, Senior Division, 3rd, Patna.

3. The petitioner has challenged the order, dated 15.12.2017, passed in Eviction Suit No. 20 of 2010, by which the request of the petitioner for verification of signature of the father of the plaintiff-respondent upon the diary by handwriting expert has been rejected.



4. Learned Counsel for the petitioner submits that the petitioner was inducted as a tenant by the father of the plaintiff-respondent in the year 1989 on the basis of oral tenancy. He further submits that subsequently the tenancy was reduced into writing by the plaintiff's father and in a diary maintained by him, both had put their signatures. The contention of the petitioner is that at that point of time, a sum of Rs. 80,000/- was paid by the petitioner-defendant to the father of the plaintiff-respondent as *Salami* for tenancy and Rs. 10,000/- for repair of the ceiling of the tenanted premises. He next submits that in course of examination as plaintiff witness, the father of the plaintiff-respondent has denied his signature on the diary and stated that the same would be verified through the expert. Accordingly, his submission is that despite acceptance before the learned Court below by the father of the plaintiff-respondent, he did not take any step for verification of his signature on the diary by the expert. As such, the petitioner filed a petition for having the signatures verified through handwriting expert before the learned Trial Court, but the learned Trial Court has erroneously rejected the same.

5. On the other hand, learned Counsel for the plaintiff-respondent submits that the suit is purely for eviction on the ground of personal necessity. The admitted position is that the



petitioner-defendant has accepted the relationship of landlord and tenant between the parties. The learned Court below, while rejecting the petition filed by the petitioner, has come to the conclusion that in the instant suit for eviction, the plaintiff's only case is to prove the genuineness of his personal necessity, specially in the light of the fact that the relationship of the landlord and tenant is not disputed. He further submits that the learned Court below has further come to the conclusion that the defendant has not been able to show as to in what manner the comparison of the signature of the father of the plaintiff on the said diary would be relevant for the proper adjudication of the real issue involved in the suit. He next submits that the learned Court below has further come to the conclusion that petition has been filed by the defendant in order to delay the disposal of the suit.

6. Having heard learned Counsel for the parties and upon perusal of the materials available on record, including the impugned order, it is evident that admittedly the suit is for eviction on the ground of personal necessity. The payment of *salami* of Rs. 80,000/- and Rs. 10,000/- for repair of the ceiling of the tenanted premises given by the petitioner-defendant is not relevant for deciding the real issue of personal necessity in the suit.



7. Accordingly, I do not find any legal infirmity in the impugned order.

8. This application is, accordingly, dismissed.

9. However, there shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01-08-2022
Transmission Date	N/A

