
Narendra Singh And Others Vs SReena Khaton

Civil Miscellaneous Petition No. 311 Of 2020

Court: Jharkhand High Court

Date of Decision: Nov. 1, 2022

Acts Referred:

Evidence Act, 1872 & Section 116

Hon'ble Judges: Gautam Kumar Choudhary, J

Bench: Single Bench

Advocate: Vishal Kumar

Final Decision: Dismissed

Judgement

Gautam Kumar Choudhary, J

Instant petition has been filed for quashing of the order dated 29.01.2020 passed by learned Sr. Civil Judge-I, Dumka in Title (Eviction) Suit No.04 of

2015 whereby defense of the petitioners (defendants) in the eviction suit, has been struck off.

It is submitted by the learned counsel on behalf of petitioners that petitioners/defendants have consistently denied landlord-tenant relationship between

them as they were absolute owner of the suit property in question. During the course of trial, the plaintiff-respondent filed a petition for direction to

pay the rent of Rs.500/- per month on or before 15th day of every month. Without considering the objections placed by the petitioners, the defense

was struck off by the impugned order. It is submitted in this regard that landlord-tenant relationship has to be decided in a suit for eviction brought

under Bihar Building (Lease, Rent & Eviction) Control Act and without deciding this issue, the petitioners could not have been directed to pay rent and

consequent defense could not be struck off. Lastly, it is submitted that landlord-tenant relationship could not be decided as preliminary issue.

From the impugned order, it appears that landlord-tenant relationship had been decided by order dated 08.08.2017 which has never been challenged

and only after non-payment of rent when the defense has been struck off, the instant petition has been filed. Under Section 116 of the Evidence Act

provides that no tenant of immovable property shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had,

at the beginning of the tenancy, a title to such immovable property.

Under the aforesaid facts and circumstance of the case, I do not find any illegality in the impugned order.

Accordingly, this Civil Miscellaneous Petition is dismissed.