
(2008) 09 PAT CK 0053
In the Patna High Court

Alka Singh

APPELLANT

Vs

Syed Sayeeduzmma Rizvi

RESPONDENT

Date of Decision : 25-09-2008

Acts Referred:

Citation : (2009) 4 RCR(Civil) 651

Final Decision : Dismissed

Judgement

Mihir Kumar Jha, J.—Heard counsel for the petitioner.

In the opinion of this Court the court below by the impugned order has rightly rejected the interrogatory filed by the petitioner (tenant defendant).

2. In order to appreciate the nature of interrogatories two things have to be appreciated. The eviction suit was filed in the year 2005 on the ground that the premises in question in which the petitioner was the tenant was required for an office purpose of the Manager who had to look after the entire building consisting of several apartments and shops. The said plea of personal necessity was sought to be questioned by the petitioner in her written statement in paragraphs No. 13 and 14 in the following manner:

13. That the statement made in para 8 of the plaint is answer in about paragraphs of this written statement. The plaintiff is not reasonably and good faith required the suit premises in any way.

It is submitted that the plaintiff asked the defendant to increase the rate of rent in anarchy and arbitrary manner which, the defendant refused, that is why the suit has been filed to evict the defendant and thereafter to let it out to some other person on heavy PAGARI and on enhanced rate of rent without consent and knowledge of the landlord.

14. That the plaintiff's family is inhabit of filing such suit against the tenants who refused to enhance rent on same and similar ground and after eviction let out to different tenant on heavy PAGARI and on higher rate of rent as the owner father

has done with Ranchers company.

3. On the basis of such plea issues were framed and the parties started leading evidence. The plaintiff closed its evidence and when the turn of the defendants came after examining three witnesses the interrogatory was filed which reads as follows:

1. Whether the shop of the suit holding in front of Jamal Road was in tenancy of Ranchers company?

2. To what period the said tenancy was and what was the rent paid by the tenant in the beginning and in the last?

3. Whether the said company is still the tenant or it has been evicted. If evicted after litigations then what was the details of the case and what was the ground of eviction.

4. Whether after eviction the said premises remained vacant or let out to any other person and if let out then what was the period of tenancy and what was the rent paid by the subsequent tenant in the beginning and in the last?

5. Whether the said shop is presently in occupation of S.P. Autometric Pvt. Ltd.?

6. What is the proof of the tenancy of the said tenant and at what rent the premises has been let out to the said tenant?

4. The court below considering the aforementioned stand of the defendant petitioner had rejected such interrogatory by holding that neither they were relevant nor they were required to be gone into in the context of issues framed. The reasons given by the court below in fact are quite germane and would speak for themselves.

5. Mr. Shrawan Kumar, learned Senior counsel, however, would contend that as a matter of fact when it came in the evidence of the plaintiff witness No. 6 in paragraphs 40 and 41 that they were evading the question as with regard to previous payments a necessity had arisen for filing of interrogatory. This Court on examination of the statement made in paragraphs 40 and 41 of the evidence is not in a position to accept such submissions. Paragraphs 40 and 41 of the evidence of P.W.6 read as follows:

40- iwjk building teky jksM+ esa gS A 5&6 gksfYMax gS A lcds ekfyd ,l0 ds0 Hkkj}kt gS A eS Manager gWaw A Building dk Front Portion Ranchers & Company ds ikl Fkk A oks Rajdoot Motorcycle ds Dealer Fks A Hon'ble S.C. es eqdnek ykdj [kkyh dj fy;k x;k gS A mlh Premises dks vkyksd dqekj ?kbZ Proprietor of Progressive Marketting dks fdjk;k ij yxk;k x;k A 6 eghuk ls [kkyh gS Ranchers dks tks fn;k x;k gS mls ck dj Rent ij fn;k x;k A

41- vxj vnkyr iwNsxh rks dkxtr nkf[ky dj nwaxk fd igys fdruk ij fdjk;k fn;k x;k rFkk ckn esa fdruk ij Suit Premises ls vkyksd dqekj ?kbZ dk cM+k gS A pkjksa rjQ ls lhlk can gS A >ydk flag ds ikl Suit Premises gS A vkyksd dqekj ds ikl tks

6. From the perusal of the aforementioned statement and the nature of interrogatories it becomes clear that the defendant-petitioner had only made an effort to extract something which he could not do in course of cross-examination. It is well settled that not every question which can be put to a witness in the box may be put as an interrogatory. Thus, the questions which are put only to test the credibility of a person are not allowed as interrogatories although they may be asked in cross-examination. The Apex Court in the case of *Raj Narain Vs. Indira Nehru Gandhi and Another*, while distinguishing interrogatory from the question appropriate during cross-examination had observed

questions that may be relevant during the cross-examination are not necessarily relevant as interrogatories. The only question that are relevant as interrogatories are those relating to any matters in question, and that the interrogatories served must have reasonable close connection with the matters in question.

7. Judged on this parameter this Court has no hesitation in holding that the interrogatories filed by the petitioner were beyond the scope of Order 11 Rule 1 C.P.C.

8. In a suit for eviction on the ground of personal necessity the defendant-tenant can always question such personal necessity but it would not be even a germane issue in eviction suit to find out as to how many tenants were there in the premises and when they were evicted or what was the amount of earlier payment of rent. These plea in fact are irrelevant. It is not the case of the defendant tenant that for same personal necessity earlier suits were filed and when they were decreed and the premises became available the landlord in stead of using for that particular personal necessity had let it out and therefore, had not fulfilled that personal necessity and again has failed fledged the same personal necessity for evicting another tenant. This Court in fact in order to consider this aspect has looked into the written statement of the petitioner but does not find therein that the petitioner had even taken such a plea in defence that setting up of office in the premises in question was also the earlier personal necessity in any suit for which either Rinchers company or Mrs. Alka Singh were the tenants and they were removed by filing suit for eviction on the ground of set up of an office for the Manager and after the premises became available to the landlord the office was not set up rather the same was let out to another person for a higher rent and the present suit was filed for the same personal necessity.

9. This Court thus on perusal of interrogatory and the written statement is satisfied that interrogatory that was filed was not only wholly belated but also beyond the case of the petitioner and therefore, this Court does not find any jurisdictional error so as to interfere with the impugned order. Accordingly, this Court would not find any merit in this application, which must be and is hereby dismissed.

10. Mr. J.S. Arora, learned Counsel appearing for the plaintiff landlord, would

submit that the suit being one for eviction on the ground of personal necessity being three years old needs to be disposed of expeditiously.

11. This Court has been informed by the counsel for the petitioner that the defendants are already leading their evidence and therefore, as the plaintiffs have already completed their evidence, it would be in the interest of justice to dispose of the suit expeditiously.

12. Thus the Court below is directed to dispose of the suit within a period of six months from the date of receipt/production of a copy of this order.

13. With the aforesaid observations and directions this Civil Revision Application being wholly misconceived is hereby dismissed.