

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
C.M.P. No.97 of 2020**

Arun Kumar ..... Petitioner  
Versus  
Vikas Kumar Agarwal .... Respondent

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**CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR**  
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For the Petitioner : Mrs. Vandana Singh, Advocate

For the Respondent : Mr. Rahul Lamba, Advocate  
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08/07.09.2021 The present civil miscellaneous petition is taken up today through Video conferencing.

**2.** The present civil miscellaneous petition has been filed for quashing and setting aside the order dated 22<sup>nd</sup> January, 2020 passed by learned Civil Judge (Junior Division), Bokaro in Title (Eviction) Suit No.02 of 2011, whereby the learned court below has rejected the petition filed by the defendant/petitioner for recalling the order dated 23<sup>rd</sup> November, 2019 by which the evidence of the petitioner was closed and the record was fixed for argument.

**3.** The learned counsel for the petitioner submits that the plaintiff/respondent filed Title (Eviction) Suit No.02 of 2011 against the petitioner seeking decree of 'Khas' vacant possession of the suit premises. In the said case, the evidence of the plaintiff was closed on 16<sup>th</sup> June, 2017 and the defendant/petitioner had produced only six witnesses out of seventeen for their examination. On 23<sup>rd</sup> November, 2019, the defendant/petitioner filed time petition for adducing evidence, however, the same was rejected by the learned court below and the case was fixed for argument on 2<sup>nd</sup> December, 2019. The defendant/petitioner filed an application for recall of the said order dated 23<sup>rd</sup> November, 2019, however, vide impugned order dated 22<sup>nd</sup> January, 2020, the said application was also rejected by the learned court below and the office was directed to fix the case on 6<sup>th</sup> February, 2020 for argument on behalf of the defendant. It is further submitted that the defendant/petitioner could not adduce evidence due to some unavoidable circumstances and non-examination of the witnesses on behalf of the defendant would cause serious prejudice to his case. As such, in the ends of justice he may be permitted to adduce the evidence. It is also submitted that the real truth can be ascertained by adducing further evidence only and as such, the denial of the same will defeat his right to fair trial which is part of the fundamental right envisaged under the constitutional mandate.

**4.** On the other hand, the learned counsel appearing on behalf of the respondent submits that the respondent has filed suit for eviction on the ground of personal necessity under Section 11(c) read with Section 14 of the Jharkhand Building (Lease, Rent and Eviction) Control Act, 2000 (in short "Act, 2000") which is required to be adjudicated in a summary and speedy manner. However, the said suit has been pending adjudication for over 10 years and the petitioner is deliberately delaying the adjudication of the same. It is further submitted that the petitioner was given several opportunities to adduce evidence, however, he was adopting delaying tactics with casual and lingering attitude towards adducing the evidence. He has failed in utilizing adequate opportunity given by the learned court below. It is also submitted that the petitioner was given more than 36 opportunities to adduce evidence but he, instead of utilizing the said opportunity, was in habit of repeatedly seeking adjournments. Moreover, the defendant could adduce only six witnesses out of seventeen in several years and as such there is no justified reason to grant him further time to lead the evidences.

**5.** An interlocutory application being I.A. No.4785 of 2021 has also been filed seeking challenge to the order dated 23<sup>rd</sup> November, 2019 passed by the learned Civil Judge (Junior Division), Bokaro in Title (Eviction) Suit No.02 of 2011.

**6.** Heard the learned counsel for the parties and perused the materials available on record. The petitioner is aggrieved with the orders dated 23<sup>rd</sup> November, 2019 and 22<sup>nd</sup> January, 2020 passed by the learned Civil Judge (Junior Division), Bokaro in Title (Eviction) Suit No.02 of 2011, whereby the learned court below has declined his prayer to adduce further evidence.

**7.** On perusal of the record, it appears that the evidence of the plaintiff/respondent was closed on 16<sup>th</sup> June, 2017 and the case was fixed for defendant's evidence on 22<sup>nd</sup> September, 2017, Thereafter, from 13<sup>th</sup> November, 2017 to 23<sup>rd</sup> November, 2019, 36 opportunities were given to the defendant/petitioner to adduce evidence, however, he could produce only six witnesses out of seventeen for examination. During the said period, the petitioner continuously filed time petition for adducing evidence. Some of the petitions were allowed by the learned court below imposing cost upon the petitioner. Moreover, in spite of providing last

chance to the petitioner, he failed to adduce further evidence. The last witness i.e., D.W.6 was examined on 25<sup>th</sup> July, 2019 and thereafter on 1<sup>st</sup> August, 2019 a time petition for adducing evidence was filed, which was allowed with cost of Rs.300/-. Again on 8<sup>th</sup> August, 2019, 25<sup>th</sup> September, 2019, 4<sup>th</sup> November, 2019 and 23<sup>rd</sup> November, 2019, the defendant/petitioner filed time petition for adducing the evidence. Due to said conduct of the defendant/petitioner, the learned court below was of the view that he was not interested in adducing further evidence and was adopting dilatory tactics.

**8.** It further appears that the suit was filed in the year 2011 for eviction of the petitioner on the ground of personal necessity for which special procedure has been prescribed under Section 14 of the Act, 2000 for speedy disposal of cases. On perusal of the language used in Section 14 of the Act, 2000, it would be evident that as per the wisdom of the legislature, the cases in which the landlords require their own premises for bona fide and personal necessity, are to be treated in a special manner so as to let them reap the fruits of decrees for eviction (depending on the merit of the cases) within quickest possible time.

**9.** In view of the discussions made hereinabove, I do not find any reason to interfere with the impugned orders dated 23<sup>rd</sup> November, 2019 and 22<sup>nd</sup> January, 2020 passed by the learned Civil Judge (Junior Division), Bokaro in Title (Eviction) Suit No. 02 of 2011.

**10.** The present civil miscellaneous petition is, accordingly, dismissed.

**11.** I.A. No.4785 of 2021 also stands disposed of.

**(Rajesh Shankar, J.)**

*Rohit/AFR*