

In the Court of Sub Judge - I, Patna City

T.E.Suit No. - 16/12

30.11.2022 Hazari on behalf of plaintiff is filed. A petition dated 29.06.2022 is filed on behalf of plaintiff u/s 15(1) BBC Act 1998 for striking the defence of defendant. The learned advocate appearing on behalf of plaintiff submit that the plaintiff is the landlord and defendant is the tenant and this suit is filed for eviction of the defendant from the premises (shop) of the plaintiff. It is further submitted that the court has ordered defendant to deposit monthly rent of Rs. 3000/- as per petition u/s 15 BBC Act but defendant is not paying the rent to the plaintiff after June 2018. It is also contended that the court has directed to pay the rent regularly otherwise the defence of defendant (tenant) will be struck off and the defendant would be placed at a position wherein it will be presumed that defendant has no defence at all and defendant will not be allowed to cross examine the plaintiff witnesses. It is prayed that defendant has violated learned court order accordingly it is prayed that defendant's defence be struck off and further defendant be debarred from cross examine the plaintiff witnesses. No rejoinder is filed on behalf of defendant.

Heard. Perused the record, it transpires that the present eviction suit is filed by the plaintiff against defendant and the relief, *inter alia* is that the "defendant be directed to deposit the rent in shop from the date of filling of the suit in court." Also perused the order of the court dated 20.01.2014, relied by the plaintiff, it transpires that the plaintiff's petition dated 03.07.2013 u/s 15 BBC Act is disposed on ground of non prosecution as requested by plaintiff himself. It also transpires that the said plaintiff's petition was disposed off without order on merits of the case, as plaintiff has himself requested to dispose the petition requesting there was no further necessity to decide on merits with regard to the said petition. Defendant did not file any rejoinder nor appear for hearing, though sufficient opportunity was provided to defendant. In light of above discussion and observation this court is opinion that no order u/s 15 BBC Act on plaintiff's petition dated 03.07.2013 was passed by this court, so as to, entitle the plaintiff for striking of the defence of the defendant. Accordingly, the petition filed by the plaintiff is devoid of any legal basis and same was hereby rejected. Put for further proceeding on 05.1.23...

Dictated

Sub Judge - I