

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.166 of 2018

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Raushan Praveen W/o Syed Alam R/o Khalilpura, P.S- Phulwarisharif,
District- Patna (At Present) Village Nausa Near Royal Metro, Police
Appartment, P.S - Phulwarisharif, Dist - Patna, Pincod-801505

... .. Petitioner/s

Versus

Md. Firoz S/o Late Samsu Mian alias Samsul Zoha R/o Mohalla New damaria
Chitkhora Bazar P.S Gardanibag Dist Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Prasad, Advocate Mr. Jitendra Kumar Bharti, Advocate Mr. Vineet Kumar, Advocate
For the Respondent/s	:	Mr. Mukesh Kumar Jha, Advocate Mr. Ujjwal Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

CAV JUDGMENT

Date : 05-05-2026

Heard learned counsel for the petitioner as well as
learned counsel for the opposite party.

2. The present Civil Revision has been filed by the
petitioner under Section 14(8) of the Bihar Buildings (Lease,
Rent and Eviction) Control Act (hereinafter referred to as 'BBC
Act') for setting aside the order dated 12.09.2018 passed in Title
Eviction Suit No. 55 of 2013 by the Court of learned Sub Judge-
IX, Patna (hereinafter referred to as 'Trial Court'), whereby the
eviction suit filed by the plaintiff/opposite party came to be
decreed under the special provisions of Section 14(4) BBC Act,
on account of non-filing of an affidavit by the



defendant/petitioner seeking leave to contest the suit.

3. The brief facts of the case, giving rise to the present proceeding, are that the plaintiff/opposite party instituted Title Eviction Suit No. 55 of 2013 before the Court of learned Sub Judge-IX, Patna, asserting himself to be the landlord of the suit premises and alleging that the defendant had been inducted as a tenant therein on monthly rent of Rs.1,500/-. The eviction of the defendant was sought on the ground of personal necessity as well as under the special summary procedure prescribed under Section 14 of the BBC Act. It was alleged in the plaint that despite requests, the defendant failed to vacate the premises, necessitating institution of the suit. The suit was thus registered and proceeded under the special provisions applicable to eviction on the ground of personal requirement.

4. The defendant/petitioner entered appearance in the suit and filed her written statement on 02.12.2013 contesting the claim of the plaintiff/opposite party in toto. It is stated that the suit is non-maintainable on the grounds of limitation, estoppel, waiver, and misjoinder/non-joinder of necessary parties, and further the defendant/petitioner specifically denied the existence of any relationship of landlord and tenant between the parties. It is further stated that the defendant/petitioner is the absolute



owner in possession of the disputed land and house, having purchased the same through a registered sale deed dated 13.10.2003 from one Md. Jawed, who is the brother of the plaintiff/opposite party, and that the plaintiff himself had signed the said sale deed as a attesting witness at the time of its execution. It is stated that after such purchase, the opposite party/plaintiff constructed a *pucca* house over the land, got her name duly mutated in the government records, and has been regularly paying rent, holding tax, and electricity charges, besides having obtained a possession certificate from the competent authority. It is also stated that the land of the opposite party is situated towards the north of the defendant's/petitioner's land and remains vacant, whereas the defendant is residing in her own constructed house along with her family members. It is further stated that the plaintiff/opposite party, in collusion with a builder who is constructing an apartment in the vicinity, has instituted the present eviction suit with a view to grab the property of the defendant/petitioner and to compel her to sell the same. The defendant/petitioner, therefore prayed for dismissal of the eviction suit, stating that the provisions of the BBC Act are not applicable in the absence of any landlord-tenant relationship and that the plaintiff has no cause of action to



institute the suit.

5. Upon consideration of the materials available on record and the procedural compliance under the special provisions of Section 14 of the BBC Act, the learned Trial Court held that although the defendant/petitioner had entered appearance and filed written statement, she failed to file the mandatory affidavit seeking leave to contest the suit as required under Section 14(4) of the BBC Act. The learned Trial Court further observed that in view of such non-compliance, the statements and grounds taken by the plaintiff/opposite party in the plaint are deemed to have been admitted by the defendant. The learned Trial Court vide the impugned order dated 12.09.2018 allowed the petition filed by the plaintiff under Section 14(4) of the BBC Act and held the plaintiff entitled to a decree of eviction. Accordingly, the learned Trial Court directed the defendant/ petitioner to vacate the suit premises and hand over peaceful and vacant possession thereof to the plaintiff/opposite party within a period of two months from the date of the aforesaid impugned order, failing which the plaintiff/opposite party was given liberty to seek eviction of the defendant/petitioner through process of law.

6. Being aggrieved by the aforesaid order of eviction



vide the impugned order dated 12.09.2018 passed by the learned Trial Court in the Title Eviction Suit No. 55 of 2013, the petitioner has filed the present Civil Revision petition before this Court.

7. Learned counsel for the petitioner assailed the impugned order dated 12.09.2018 on the ground that the same has been passed in a mechanical and summary manner without proper appreciation of the pleadings and materials available on record. It is submitted that although the petitioner had entered appearance promptly after service of summons and had filed her written statement on 02.12.2013 contesting the suit on merits, the learned Trial Court proceeded to decree the suit solely on the technical ground of non-filing of affidavit under Section 14(4) of the BBC Act. It is further submitted that such an approach defeats the principles of natural justice, particularly when the matter was already posted for settlement of issues and the defence of the petitioner was available on record.

7.i. Learned counsel for the petitioner further submitted that the very foundation of the eviction suit, namely the existence of a landlord-tenant relationship, is wholly absent in the present case. It is submitted that the petitioner claimed to be the absolute owner in possession of the suit property by



virtue of a registered sale deed dated 16.12.2003 executed by Md. Jawed, who is none other than the full brother of the plaintiff, and significantly, the plaintiff himself is an attesting witness to the said sale deed. It is further submitted that subsequent mutation in government records, grant of land possession certificate, payment of electricity bill and holding tax, and construction of a *pucca* house over the purchased land clearly establish the independent right, title, and possession of the petitioner over the property. Learned counsel submitted that in such circumstances, the provisions of the BBC Act, which presuppose existence of tenancy, are not attracted at all.

7.ii. Learned counsel further submitted that even otherwise, the learned Trial Court has failed to satisfy itself regarding the existence of *bona fide* requirement or any legally sustainable ground for eviction, as no documentary or oral evidence was adduced by the plaintiff in support of his case. It is submitted that neither any rent receipt nor any lease deed was brought on record, nor was the plaintiff examined as a witness to prove the pleadings. Learned counsel further placed reliance on settled principles of law and submitted that mere pleadings cannot be treated as proof and even in a proceeding under Section 14, the Court is under an obligation to scrutinize the



genuineness and *bona fides* of the claim. In order to support his averments he relied on the judgment of the Coordinate Bench of this Hon'ble High Court in *Abhimanyu Prasad Sah v. Murlidhar Bhawsinghka 1998 (1) PLJR*. It is thus submitted that the impugned order, having been passed without such judicial scrutiny and in disregard of the materials on record, is unsustainable in law and fit to be set aside.

8. *Per contra*, learned counsel for the opposite party supported the impugned order dated 12.09.2018 and submitted that the same has been passed strictly in accordance with the mandatory provisions of Section 14 of the BBC Act. It is submitted that the eviction suit was filed on the ground of personal necessity under Section 11(1)(c) of the BBC Act and was rightly taken up for summary disposal under Section 14 of the same. It is further submitted that although the defendant/petitioner had entered appearance and filed written statement, she admittedly failed to file the requisite affidavit seeking leave to contest the suit, which is a condition precedent under Section 14(4) of the BBC Act. It is submitted that in such circumstances, the learned Trial Court was left with no option but to treat the statements made in the plaint as deemed to have been admitted and to pass an order of eviction accordingly. It is



thus submitted that no illegality or procedural irregularity can be attributed to the impugned order.

8.i. Learned counsel for the opposite party further submitted that the scheme of Section 14 of the B.B.C. Act clearly envisages a special and summary procedure, intended to prevent unnecessary delay caused by tenants raising frivolous defences in eviction suits based on personal necessity. He submitted that once the defendant fails to comply with the statutory requirement of filing an affidavit and obtaining leave to contest, the Court is not required to consider the written statement or to record evidence, as the deeming fiction under Section 14(4) comes into operation. Learned counsel submitted that the learned Trial Court has, therefore, rightly exercised jurisdiction vested in it by law and has decreed the suit after due consideration of the records and applicable legal provisions.

8.ii. In support of the aforesaid submissions, learned counsel for the opposite party has placed reliance upon several judicial pronouncements wherein it has been consistently held that filing of affidavit seeking leave to contest is mandatory and in absence thereof, the defendant forfeits the right to contest the suit. Reliance has been placed on the judgment of this Court in *Abdul Salam v. Mohammad Junai* (Civil Revision No. 2327 of



2006), wherein it has been held that without obtaining leave, the written statement cannot be looked into nor can the defendant be permitted to contest. Similar view has been reiterated in ***Sardar Singh Karla v. Mahesh Kumar Lohani*** (Civil Revision No. 2211 of 2001) wherein it has been held that once the facts are deemed to be admitted due to failure to obtain leave, the plaintiff is not required to adduce evidence. On the strength of these authorities, it is submitted that the present Civil Revision is devoid of merit and is liable to be dismissed.

9. Having heard the learned counsel for the parties and upon perusal of the materials available on record, this Court finds that the scope of interference in exercise of revisional jurisdiction, particularly under Section 14(8) of the B.B.C Act, is limited. It is well settled that this Court, while exercising revisional powers, does not act as an Appellate Court to reappraise evidence but is required to examine whether the impugned order suffers from any jurisdictional error, illegality, material irregularity, or perversity in the exercise of jurisdiction. Therefore, interference is warranted only when the findings recorded by the learned Trial Court are contrary to law or have resulted in manifest injustice. The revisional power is supervisory in nature and cannot be equated with appellate



jurisdiction; interference is permissible only where the subordinate Court has acted without jurisdiction or with material irregularity in the exercise of such jurisdiction.

10. Upon consideration of the records, it is not in dispute that the eviction suit was instituted under the special procedure prescribed under Section 14 of the BBC Act and that the defendant/petitioner had entered appearance and filed her written statement within time. It is equally admitted that no separate affidavit seeking leave to contest the suit, as mandated under Section 14(4) of the BBC Act, was filed by the defendant. It is pertinent to draw the attention on section 14 of the BBC Act, which are as follow:

Section 14; Special procedure for disposal of cases for eviction on ground of bonafide requirement.

(1) xxx

(2) xxx

(3) xxx

(4) *The tenant on whom summons is duly served (whether by ordinary mail or by registered post) shall not contest the prayer for eviction from the premises unless he files an affidavit stating the ground on which he seeks to make such contest and obtains leave from the Court as hereinafter provided; and in default of the appearance in pursuance of the summons or his obtaining such leave the statement made by*



the landlord in the suit for eviction shall be deemed to be admitted by the tenant and the landlord shall be entitled to an order for eviction on the ground aforesaid.

(5) The Court shall give to the tenant leave to contest the suit if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for eviction on the grounds specified in clauses (c) and (e) of sub-section (1) of Section 11.

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11. Moreover, it is clear that for the applicability of the Section 14(4) of the BBC Act, tenancy must be undisputed and the relationship of the landlord and tenant is established but in the instant case tenancy has denied. Further, both the plaintiff and the defendant has pleaded in their respective plaint and written statement that their land is adjacent to the part of same Plot No. 752, Khata No. 52 and Thana No. 38. Furthermore, plaintiff purchased the disputed land vide registered sale deed dated 28.07.1986 and also admitted in Paragraph No. 3 of the plaint that defendant has purchased the adjacent part of the suit premises which is in the west side of the suit land vide registered sale deed dated 13.10.2003 from Md. Jawed, the elder brother of the plaintiff. This fact also pleaded by the defendant in para no. 5 of the written statement. All these facts in toto suggest the fact that there is possibility that the suit property is



purchased by the plaintiff.

12. Further, after considering the above fact it is implied that tenancy is neither admitted not established in the present case so the requirement of section 14 (4) of the BBC Act is not applicable in the fact and circumstances of the instant case. The learned Trial Court has proceeded on the technical aspect of the Section 14(4) of the BBC Act, while allowing the petition of the plaintiff and decreeing the suit.

13. Moreover, this Court finds that the matter does not rest merely on technical non-compliance. From the written statement and materials brought on record, a serious dispute has been raised with regard to the very existence of the relationship of landlord and tenant between the parties. The specific stand of the defendant is that she is the purchaser of the suit property by virtue of a registered sale deed executed by the brother of the plaintiff/opposite party, and that the plaintiff himself is an attesting witness to the said transaction. The defendant/petitioner has further asserted her independent title and possession over the property supported by mutation, possession certificate, and payment of government dues. Such pleadings, going to the root of the maintainability of the eviction suit under the BBC Act, could not have been lightly brushed



aside without judicial scrutiny. The legal position in this regard stands conclusively settled by the Constitution Bench of the Hon'ble Apex Court in ***Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh*** reported in ***(2014) 9 SCC 78***. the Hon'ble Apex Court held that:

“The revisional court does not have the power to re-appreciate evidence. The jurisdiction is confined to examine whether the findings of fact recorded by the court below are according to law and do not suffer from perversity or jurisdictional error.”

14. It is well settled that even in a proceeding under Section 14 of the BBC Act, though summary in nature, the Court is not absolved of its duty to satisfy itself regarding the existence of essential ingredients for eviction, particularly the relationship of landlord and tenant and the *bona fide* requirement of the plaintiff/opposite party. The deeming provision under Section 14(4) of the B.B.C. Act cannot be stretched to the extent of permitting a decree in cases where foundational facts themselves are seriously disputed and are not supported by any evidence. In the present case, it appears that no documentary evidence, such as rent receipts or lease agreement, was produced by the plaintiff/opposite party, nor



was any oral evidence led to substantiate the claim of tenancy or personal necessity.

15. It is also pertinent to note procedural aspect of section 14(4) of the BBC Act are meant to advance the cause of justice and not to frustrate it, and that Courts should ordinarily lean in favour of deciding matters on merits rather than shutting the doors of justice on technical grounds. In the present case, the learned Trial Court, was required to adopt a pragmatic and justice-oriented approach while passing the impugned order. Position of law is well settled that courts should ordinarily lean in favour of adjudication on merits rather than dismissal on technicalities. The legal principle laid down by the Hon'ble Apex Court in *M/s Anvita Auto Tech Works Pvt. Ltd. v. M/s Aroush Motors*, reported in **2025 INSC 1202**, which is as under:

“The object of the procedural rules is to advance the cause of justice and not to thwart it and when the rigid adherence to technicalities of procedure causes injustice, courts have to come to the rescue by adopting a liberal approach. The courts cannot countenance a situation where substantial justice is sacrificed at the altar of procedural rigidity. Where substantial justice is at stake, technicalities must give way to ensure that the litigant is afforded sufficient opportunity to defend. The present



controversy must be tested on the said principle.”

16. In that view of the matter, the learned Trial Court, in proceeding to decree the suit solely on the ground of non-filing of affidavit, without examining whether the basic ingredients of the claim stood established, has failed to exercise jurisdiction vested in it in accordance with law. The approach adopted reflects a mechanical application of the provision under Section 14(4), overlooking the requirement of minimal judicial satisfaction even in summary proceedings. Consequently, the impugned order suffers from material irregularity and calls for interference by this Court in exercise of its revisional jurisdiction.

17. In view of the discussions made hereinabove, this Court is of the considered opinion that the impugned order dated 12.09.2018 passed by the learned Sub Judge-IX, Patna in Title Eviction Suit No. 55 of 2013 cannot be sustained in the eyes of law. The same is hereby set aside. The matter is remitted back to the learned Trial Court for fresh adjudication in accordance with law after affording adequate opportunity to the defendant/petitioner to contest the suit. It is further directed that the learned Trial Court shall proceed expeditiously as per settled law and decide the suit on its own merits after settlement of the



issue, uninfluenced by any observations made in this order.

18. Accordingly, the present Civil Revision application stands disposed of.

19. Any interim order, if operating, stands vacated.

(Ramesh Chand Malviya, J)

Mayank/-

AFR	AFR
CAV DATE	24.04.2026
Uploading Date	05.05.2026.
Transmission Date	NA

