

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.849 of 2014

Arising Out of PS.Case No. -124 Year- 2014 Thana –Nathnagar(Madhusudanpur) District-
BHAGALPUR

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Bijay Kumar Sinha, son of Late Babu Man Mohan Narayan Sinha, resident of
village Purani Sarai, P.O. & P.S. Nathnagar, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Senior Superintendent of Police Bhagalpur
3. The Inspector of Police, Nathnagar Police Station, Nathnagar, Bhagalpur
4. The Inspector of Police, Madhusudanpur Police Station under Nathnagar Police
Station, Bhagalpur
5. Sri Ghanshyam Singh, son of not known, Sub-Inspector of Police,
Madhusudanpur (Nathnagar) Police Station, Bhagalpur.
6. Sri Rakesh Gupta, son of not known, Sub-Inspector of Police, Officer-in-charge,
Nathnagar (Madhusudanpur) Police Station, Bhagalpur.
7. Smt. Meena Sinha, wife of Vidyapati Sinha.
8. Vidyapati Sinha, son of late Shyam Narayan Sinha
Both (7) & (8) residents of village-Purani Sarai, P.S.-Nathnagar (Madhusudanpur),
District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv.

For the Respondent/s : Mr. A.C. to GP-15

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-03-2015

In this application filed under Articles 226 and 227 of
the Constitution of India, the petitioner has made the following
prayers in paragraph 1 :-

“1. That, the present writ application by the
petitioner, a citizen of India, within the jurisdiction
of this Hon’ble Court is being filed for the following
reliefs :-

- (a) The Respondent Police Officers may be
restrained from taking illegal recourse/ assault/
arrest/illegal pressure to transfer the land of
the petitioner to the private Respondents 7 to 8
and whenever any action is required they
should take recourse of Section 41 Cr.P.C. as
guided by Hon’ble Supreme Court reported in

2014(3) PLJR Page (SC) 314.

- (b) The action taken by the concerned Officers of Nathnagar Police Station and Madhusudanpur Police Station both in the District of Bhagalpur be declared illegal and suitable punishment may be awarded to them and compensation to the petitioner.
- (c) Those Police Officers may be restrained from pressurizing the petitioner from holding their constitutional post from transferring the land.
- (d) The concerned Police Officers may be directed to not resort to dispossess the petitioner from his land.”

Learned counsel for the petitioner has contended that the petitioner is the owner of plot nos. 86, 87 and 89 under Khata no.27 of Mouza Purani Sarai, P.S. Nathnagar, District Bhagalpur and the same has been declared in his favour in Title Suit No. 80 of 2004 vide judgment dated 15th December, 2007 and Decree dated 17th January, 2008, passed by the learned Sub-Judge-3, Bhagalpur and no appeal has been filed against the said judgment. The petitioner perfected his title and he is in possession of the land since long and the land has been bounded by wall from all sides. The land has been mutated in the name of the petitioner and he is getting up-to-date rent receipts and land possession certificate has also been issued in his favour. The adjacent plot no. 82 in north pertaining khata no.199, plot no.195 measuring 10 decimals belongs to one Shanti Devi. She sold the land to several persons, one of the purchasers is Vidyapati Sinha (Respondent no.8) and he is claiming the land of Shanti Devi. Respondent no.8 claimed his land covered by the sale deed belonging



in the name of the petitioner and he, with the help of police, wants to capture this land under the strength of forged kewala which he cannot do unless he gets the judgment and decree of Title Suit No.80 of 2004 set aside by the competent court of law and recover possession of the same by execution of decree. It has further been contended that illegal design of respondent nos.7 and 8 is being favoured by the local police administration including local police officers and they are trying to evict the petitioner by force, which has led filing of Complaint Case No. 798 of 2014 dated 30th April, 2014 against respondent nos.7 and 8 and one Pratima Choudhary (alleged vendor) by the petitioner under sections 406 and 420 of the Indian Penal Code.

On the other hand, learned counsel for the State has submitted that respondent no.7 Mina Sinha has filed Nathnagar (Madhusudanpur) P.S.Case No. 124 of 2014 on 22.05.2014 against the petitioner and others making the allegations therein that the accused persons have broken out the wall and have taken out gold ornaments, a VIP suitcase containing saree etc. and on protest they have threatened with dire consequences. Accordingly, the case was registered and investigation was taken up and finding the allegations to be true against the petitioner and others, charge sheet was submitted before the Magistrate concerned. The petitioner was arrested by the police in connection with that case and was produced in the court of competent Magistrate. The Magistrate concerned

remanded him to judicial custody on 23rd May, 2014 whereas the other accused persons of the case have been granted bail subsequently by the court below. She has submitted that the police have discharged their statutory duty and have shown no favour either to the petitioner or to the respondents. The dispute relating to property cannot be resolved by the police. In such matters, the police have no power. She has also submitted that the Officer-in-Charge of Nathnagar Police Station had submitted a report before the Sub Divisional Magistrate for taking action against the parties under section 107 of the Code of Criminal Procedure.

I have heard the parties and perused the record. It appears that several disputed questions relating to right, title and possession have been raised in this application. Such disputed facts cannot be resolved in writ jurisdiction by this Court.

In that view of the matter, I am not inclined to entertain this application as the petitioner has other equally efficacious statutory remedy. Accordingly, this application is dismissed.

(Ashwani Kumar Singh, J)

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