

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.338 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- BHAGALPUR

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1. Sunil Kumar Goswami S/o Late Mahadeo Goswami Resident of Village Janidih,
Police Station Ghogha, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bhagalpur Region, Bhagalpur.
5. The Deputy Inspector General of Police, Bhagalpur Region, Bhagalpur.
6. The Senior Superintendent of Police, Bhagalpur.
7. The Deputy Superintendent of Police cum Sub-Divisional Police Officer, Kahalgaon, District Bhagalpur.
8. The Officer-in-charge Ghogha Police Station under Kahalgaon S.D.P.O. Kahalgaon, District Bhagalpur.
9. Sri Randhir Singh S/o Not known The present Officer-in-charge Ghogha Police Station, District Bhagalpur.
10. The Sub-Divisional Officer, Kahalgaon, District Bhagalpur.
11. Jagdeo Gowami

12. Basudeo Goswami

13. Krishnadeo Goswami

14. Bishundeo Goswami All S/o Late Budhinath Goswami

15. Giridhar Goswami

16. Umanand Goswami Both S/o Late Suddhnath Goswami

17. Rani Goswami

18. Monikant Goswami Both S/o Umakant Goswami

19. Manoj Goswami All 11 to 19 residents of Village Janidih, Police Station
Ghogha, District Bhagalpur.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Ashok Kumar Keshri AAG XI

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-01-2015

In the present application, filed under Articles 226 and 227 of the
Constitution of India, the prayer of the petitioner is as under:

“1. That, this application has been filed for
commanding the respondents 1st Set for following reliefs:

i. For removing encroachment and structure if any
made over the land of petitioner made by respondent 2nd set.

ii. For initiating the proceeding against Respondent

2nd set on the basis of report submitted by police under section 147 Cr.P.C. and lodging F.I.R. against them including Respondent no.9.

iii. For a direction upon respondent no. 10 to conclude all the proceeding pending before him filed by the petitioner after hearing at the earliest within one month or two months.

iv. For direction to pay the amount of compensation and harassment suffered by the petitioner in the hands of respondents.”

Apparently, the petitioner has filed the instant writ petition for direction to the respondents to remove the impugned structure, calling it as encroached structure, and for initiation of proceeding under section 147 of the Code of Criminal Procedure.

A counter-affidavit has been filed on behalf of the State. The stand of the State is that there is a land dispute between the petitioner and the private respondents, who are his agnate, and proceedings under sections 107 and 144 of the Code of Criminal Procedure are going on between the parties. Learned counsel for the State has submitted that the police has no power either to decide title or possession of a party or to put in possession or oust any one without the order of a competent court.

Having regard to the facts and circumstances of the case, I find no merit in the present application. The disputed questions relating to right, title and possession cannot be adjudicated in a writ proceeding.

In that view of the matter, I am not inclined to entertain the present application. Accordingly, this application is dismissed.

B.Roy/-

(Ashwani Kumar Singh, J)

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