

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.931 of 2014

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1. Sakendra Das S/o Late Vasudeo Das Resident of Vill. AND P.O. - Badi
Baliya, P.S. - Baliya, District - Begusarai, Bihar Petitioner

Versus

1. The State of Bihar Through The District Magistrate, Begusarai
2. The District Magistrate, Begusarai
3. The Superintendent of Police, Begusarai
4. The Sub-Divisional Officer, Ballia, Dist.- Begusarai
5. The Sub-Divisional Magistrate, Ballia, Dist.- Begusarai
6. The Sub-Divisional Police Office, Ballia, Dist.- Begusarai
7. The Circle Officer, Ballia, Dist.- Begusarai
8. The Anchal Adhikari, Ballia, Dist.- Begusarai
9. The Station House Officer, Ballia, Dist.- Begusarai Respondents

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Appearance :

For the Petitioner : Ms Aditi Hansaria, Adv.

For the Respondents : Mr. Dr. Anshuman (Sc 14)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

3 01-05-2015

Heard the learned counsel for the petitioner
and the State.

This is a petition for issuance of mandamus
commanding the respondents not to allow or permit
any person for establishing or carrying out any
business for possession on the property in question,
during the pendency of the proceeding under
Section 146 of the Criminal Procedure Code.

The learned counsel for the petitioner
submits that earlier a proceeding under Section 144
of the Criminal Procedure Code, which was
subsequently converted under Section 145 of the
Criminal Procedure Code and, thereafter, an order
passed under Section 146 of the Criminal Procedure
Code and property ordered to be given under the
receivership to the Circle Officer, Ballia, district
Begusarai, and it has been ordered that till any
order of the competent Court about the possession
of title the Circle Officer is appointed as receiver.

Having regard to this order, now the Court of the Sub Divisional Officer, Ballia, Begusarai, or the Circle Officer, Ballia, Begusarai, have taken the possession and the property is custodia legis till the title in possession is decided by a competent Court.

However, a grievance of the petitioner is that on the said land licence is being granted for taking out procession of Durga Puja. The petitioner, instead of moving the competent Court for deciding it's title, has prolonged his litigation by filing this petition. However, when the alternative remedy is available to the petitioner for declaration of title and possession before a competent Court, it is not proper for this Court to exercise the extra ordinary jurisdiction.

Hence, I do not find any merit to issue any direction and the petitioner may raise the issue before a competent Court, which is required to decide the title and possession.

With this observation, this application is **disposed off**.

(Gopal Prasad, J)

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