

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7104 of 2015

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Sunil Kumar @ Sunil Kumar Sahu @ Sunil Sahu S/o Late Suraj Sah
Resident of Mohalla Ward No. 11, Piro, P.S. Piro, District Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Collector, Bhojpur (Ara).
3. The Sub Divisional Officer, Piro, District Bhojpur.
4. The Circle Officer Piro, District Bhojpur.
5. The Executive Magistrate, Piro, District Bhojpur.
6. The Deputy Superintendent of Police, Piro, District Bhojpur.
7. The Officer in Charge of Police, Piro, District Bhojpur.
8. The Executive Officer, Nagar Panchayat, Piro, District Bhojpur.
9. The Superintendent of Police, Bhojpur at Ara
10. Mohd. Taiyab Hussain, S/o Mohd. Hussain, Piro, W.No. 11, P.S. Piro, District-Bhojpur (Ara)

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Nil Kamal, Advocate

For the Respondent/s : Mr. Rajiv Roy, G.P.-5

Mr. Arun Kumar, A.C. to G.P.-5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 31-07-2015 Heard Mr. Nil Kamal, learned counsel for the petitioner
and Mr. Arun Kumar, Assisting Counsel to G.P.-5 for the State.

Leave is granted to the petitioner to arraign the
Superintendent of Police, Bhojpur and Md. Taiyab Hussain as
party respondents to the writ proceeding.

A rather innocuous prayer has been made by the
petitioner in this writ petition. He seeks protection of this Court so
that he can construct / repair his house which is standing over the
piece of land bearing Khata No. 1323, Khesra No. 919 having an
area of 15 decimals, Plot No. 920 having an area of 18 decimals

and plot no. 921 having an area of 16 decimals in Ward No. 11 of Nagar Parishad Piro, Thana No. 88 in the Mauza and P.S. Piro, District-Bhojpur.

Mr. Nil Kamal has taken this Court through two orders passed by the Sub Divisional Officer, Piro, Bhojpur; one arising out of proceeding initiated under Section 144 of the Code of Criminal Procedure at the instance of one Md. Taiyab Hussain giving rise to Case No. 144 of 2014 and which proceeding upon consideration of the facts was dropped by the Sub Divisional Officer, Piro vide order passed on 15.9.2014 placed at Annexure-4 to the writ petition. It is submitted by Mr. Nil Kamal that not being satisfied that a second proceeding was initiated at the instance of Md. Taiyab Hussain, this time by invoking the provisions of Section 133 of the Code of Criminal Procedure giving rise to Case No. 7 of 2014 and again the Sub Divisional Officer, Piro, Bhojpur in consideration of the facts governing the issue dismissed the application and dropped the proceedings vide order passed on 24.11.2014 placed at Annexure-7. It is submitted by Mr. Nil Kamal that the petitioner thinking that his trouble has ended and that he can begin the repair of his residential house that he approached the Sub Divisional Officer for granting him protection from the unwarranted interference of the said Md. Taiyab Hussain and which prayer of the petitioner was accepted



by the Sub Divisional Officer who vide order bearing Memo No. 2003 dated 17.12.2014, responding to the requisition of the Circle Officer, directed the Station House Officer, Piro to provide force so that the petitioner can complete his construction work. It is submitted that the said Md. Taiyab Hussain in attempt to scuttle the process got a certificate issued from an advocate of Civil Court, Ara to the effect that he has moved in revision and whereupon the matter has come to a standstill. He submits that the house of the petitioner standing over the plot requires urgent repairs but is being thwarted at the hands of the said Md. Taiyab Hussain. It is contended that the falsity of the certificate would be gathered from the fact that when information was gathered by the Sub Divisional Officer from the Government Pleader, that he responded that in absence of stay, the construction work can be carried out. It is the submission of learned counsel for the petitioner that since the proceedings had come to standstill that he represented before the Collector, Bhojpur vide an exhaustive representation filed on 22.01.2015, a copy of which is placed at Annexure-10 and which was referred to the Sub Divisional Officer and Circle Officer as well. The Circle Officer has given his report placed at Annexure-10/b in which it is stated that the house of the petitioner is constructed and there is a passage going beside that. It is further mentioned that as per the report of the Amin no



encroachment has been made by the petitioner and that nature of the land is raiyati and not a public land. In the circumstances, Mr. Nil Kamal, learned counsel appearing on behalf of the petitioner submits that even when all the circumstances have gone in favour of the petitioner yet it is at the instance of the said Md. Taiyab Hussain that he is not being allowed to carry on the constructions.

I have heard learned counsel for the parties and I have perused the materials on record. The documents on record are supportive of the contention of the petitioner. The documents on record also reflect a dispute in between the petitioner and the said Md. Taiyab Hussain. There are orders of the Sub Divisional Officer which are drawn in favour of the petitioner but they have yet not been taken to its logical conclusion inasmuch as the petitioner is yet awaiting administrative support to complete his construction. The representation filed before the District Magistrate is yet pending.

In the circumstances, I am of the considered opinion that instead of keeping the writ petition pending by issuing notice and hearing the private respondent who has been arraigned in this application, it would be but appropriate that the District Magistrate be directed to dispose of the representation of the petitioner in consideration of the documents relied upon by the petitioner some of which finds mention in this order, after giving an opportunity of

hearing to the petitioner and the private respondent no. 10. It is needless to mention that should the petitioner be able to satisfy the District Magistrate as to his right to make constructions in the light of the order passed by the Sub Divisional Officer under Section 133 and 144 of the Code of Criminal Procedure as well as the other documents supporting his title and possession of the land, he would be issuing necessary orders for providing administrative and police support to the petitioner for completing his construction. It is again needless to mention that in such circumstances the Superintendent of Police would provide all support to the petitioner for completion of the construction work.

Considering the urgency of the matter, let the matter be considered and be disposed of by the District Magistrate, Bhojpur in the manner stipulated hereinabove expeditiously and preferably within a period of six weeks from the date of receipt /production of a copy of this order.

(Jyoti Saran, J)

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