

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3115 of 2015

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Shailesh Maharaj S/o Mr. Diwakar Maharaj Kavi R/o P.O Alamnagar P.S.
Alamnagar District- Madhepura

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Madhepura
3. The Additional District Magistrate, Madhrpura
4. The Sub-Divisional Officer, Uda Kishunjung Madhrapura
5. The Ciircle Officer, Alamnagar Madhrapura
6. The Circle Inspector, Alamnagar Madhrapura
7. Mr. Ram Gopal Pansaria S/o Late Manilal Pansaria R/o P.O Alamnagar
P.S. Alamnagar District- Madhepura
8. Mr. Prashant Kumar S/o Radheyshyam Pansaria R/o P.O Alamnagar P.S.
Alamnagar District- Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra
For the State : Mr. Roy Shivaji Nath, AAG 3
Divya Verma AC to AAG 3
For the respondent 7 & 8 Mr. Sanjay Singh Thakur

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 02-09-2015 Mr. Sajeev Kumar Mishra for the petitioner, Mr. Sanjay
Singh Thakur for the private respondent and Mr Roy Shivaji Nath
AAG 3 for the State are present.

I heard the parties.

The writ petition challenges the legality of the order dated
07.11.2014 passed by the respondent-District Magistrate as well a
the order dated 05.12.2014 passed by the respondent-Sub-
Divisional Officer (Annexure-7).

The case of the petitioner, in brief, is that one of the co-



sharers of the petitioner sold 11 decimals of land in favour of the private respondent no.7 on 25.07.2007. On the strength of the sale deed, the purchaser got the land mutated against which an appeal was unsuccessfully filed. Aggrieved thereby, the petitioner filed a revision application which is pending consideration. In the meanwhile, the private respondent filed an application before the District Magistrate for providing him protection as in the title suit a decree was passed in his favour. The respondent-District Magistrate under order dated 07.11.2014 (Annexure-6) declined the prayer stating that in the matter like this the court of competent civil jurisdiction can only pass an order. However, in the light of the said order of the District Magistrate, the Sub-Divisional Officer by order dated 05.12.2014 deployed/deputed the slew of police constables in and around the subject land for two days i.e. 23.12.2014 and 24.12.2014 on payment of cost therefor by the applicant/private respondent no.7.

Mr. Mishra submitted that a title suit has been filed by the petitioner vide T.S. No.121 of 2009 for setting aside the sale deed in favour of private respondent no.7 in which an application for grant of injunction has also been filed. In the order passed by the District Magistrate an observation has been made that the applicant (private respondent no.7) is in possession of the subject

land. There is nothing on record to suggest that the petitioner was made party in the said proceeding on the complaint which was filed before the District Magistrate and obviously he was not heard. The observation with regard to possession of the private respondent no.7 on the subject land may prejudice the case of the petitioner in the pending suit.

Counsel for the State as well as private respondents have argued that no effective relief can be granted in the writ petitioner which is mainly directed against the deployment of force or 02 days only in order to maintain the law and order situation which is the legal obligation of the State. It does not appear therefrom that the same was deployed for forceful remove/ejectment of the writ petitioner.

Upon consideration of the submissions of the parties, in my view, the writ application does not merit to be allowed by quashing the order (Annexure-7) which has already taken effect. It further appears to this Court that the suit at the instance of the petitioner is pending wherein, as submitted by the petitioner himself, an injunction petition has been filed and is pending consideration. If there is any possession or dispossession pursuant to the order passed by the authority the same can be agitated in the said proceeding pending in the court. In doing

so, the observation if any made in the order (Annexure-6) on the point of possession, shall not prejudice the case of the party.

The application is dismissed.

(Kishore Kumar Mandal, J)

HR/-

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