

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.847 of 2010

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Jay Narayan Sah @ Katki Sah S/O Late Siro Sah R/O Vill.- Sirai, P.S. Bousi,
Distt.- Banka

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Banka
3. Superintendent of Police, Banka
4. Sub Divisional Magistrate, Banka
5. S.H.O. Bousi Police Station, Distt.- Banka
6. Navina Nand Mishra S/O Kalika Nand Mishra R/O Vill.- Tahuwa, P.S. Bousi,
Distt.- Banka
7. Madhwanand Mishra S/O Kalika Nand Mishra R/O Vill.- Tahuwa, P.S. Bousi,
Distt.- Banka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umakant Prasad

Mr. Indra Mohan Kumar

For the Respondent/s : Mr. Avanindra Kumar Jha, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 03-02-2015

Heard the parties.

2. The petitioner has filed the present writ petition seeking a direction to the respondents to put the petitioner in possession over the premises from where he was allegedly dispossessed by the S.H.O., Bousi police station (respondent no.5) at the instance of the respondent no. 6 and 7.

3. In the whole writ petition the petitioner has not disclosed the plot number over which he was having his shop/stall. He has not shown/ produced any valid paper showing his right and title over that plot in question.

4. An exhaustive counter-affidavit has been filed on behalf of the respondent no.3 (wrongly mentioned as respondent no.9) disputing the claims raised on behalf of the petitioner in the writ petition. It has further been stated in the aforesaid counter-affidavit

that both sides are at logger heads and there are case and counter case vide Annexure-R/1 and R/2 from both sides. The entire claim raised on behalf of the petitioner is based on disputed question of facts. Furthermore, the then S.H.O., Bousi, who is alleged to have dispossessed the petitioner from the premises in question, has not been impleaded as a party respondent by name.

5. In absence of any enforceable legal rights available to the petitioner and in view of the facts that the entire claim raised on behalf of the petitioner is based on a disputed question of fact and furthermore both sides are at loggerheads in view of the pendency of the criminal cases from both sides, the relief sought for on behalf of the petitioner in the present writ petition cannot be granted.

6. Accordingly, the writ petition has to fail and is, accordingly, dismissed. However, if so advised, the petitioner shall be at liberty to approach the civil court of competent jurisdiction for grant of appropriate relief on the basis of the evidence produced by the parties.

(Birendra Prasad Verma, J)

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