

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.374 of 2015

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

Dinesh Kumar, S/o Late Sheonandan Mahto, resident of Mohalla-North Mandiri,
Dhobi Tola, P.S.- Budha Colony, District- Patna. Petitioner

Versus

1. The State of Bihar through Director General of Police, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Patna.
3. The Inspector General of Police, Government of Bihar, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Superintendent of Police, Patna.
6. The Deputy Superintendent of Police, Patna.
7. The Station Head Officer, Budha Colony Police Station, Patna
8. Ashok Kumar S/o Sri Sheonandan Prasad resident of village- Jhamadih, P.S. Noorsari, District- Nalanda at Present residing at the house of Chandeshwar Singh of Mohalla- North Mandiri, P.S. Bodha Colony, District- Patna.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Chitranjan Sinha, Sr. Advocate
Mr. Sanjeev Mishra, Advocate
For the Respondent-State : Mr. Mahtab Alam, AC to SC-3
For the Respondent No.8 : Mr. Madhuresh Prasad, Advocate
Mr. Abhay Shankar, Advocate
Mr. Shyameshwar Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-07-2016

Heard Mr. Chitranjan Sinha, learned Senior Counsel
for the petitioner, Mr. Mahtab Alam, learned counsel for the State
and Mr. Madhuresh Prasad, learned counsel appearing for the

respondent No. 8.

2. By way of the present application preferred under Articles 226 & 227 of the Constitution of India, the petitioner seeks a direction to be issued to the respondents for restoration of possession of part of the house situated at Plot No.662, Khata No. 67, Ward No. 26, Circle No. 244, Holding No. 970 at Mohalla-Noth Mandiri, Dhobi Tola, P.S.-Budha Colony, District-Patna from which he along with his family members has been forcibly evicted on 29th March, 2015 by the respondent No. 8.

3. It is contended by the learned Senior Counsel appearing on behalf of the petitioner that the respondent No. 8 on the basis of invalid registered sale-deed dated 05.11.2014 executed by Sita Ram Mahto and others started creating disturbance to the petitioner in his peaceful possession over the residential premises in which he was residing along with his family members. An information, in this regard, was given to the S.H.O. of Budha Colony Police Station on 29th March, 2015 stating therein that the respondent No. 8 and others are trying to dispossess him from the aforesaid house in which the petitioner was living since long. However, no protection was provided by the respondent No. 7 to the petitioner and the respondent No. 8 along with his family members and musclemen armed with deadly weapon with

connivance with respondent No. 7 reached at the residential house of the petitioner at about 2:00 p.m. on 29th March, 2015 itself and forcibly evicted the petitioner and his family members.

4. *Per contra*, learned counsel for the State has controverted the submissions made by the learned counsel for the petitioner. He has submitted that there is long standing dispute between the petitioner and respondent No. 8 and on inquiry conducted by the police, it was found that parties are making allegation and counter allegation against each other.

5. On the other hand, learned counsel for the respondent No. 8 has submitted that wife of respondent No. 8, namely, Manisha Mishra had purchased 1.875 decimal of land through registered sale deed on 9th December, 2014 and the right, title and possession over the land was conveyed to the wife of respondent No. 8 by seven vendors, namely, Sri Sita Ram Mahto, Sri Ranjan Mahto, Sri Krishna Kumar, Sri Lal Babu, Sri Shyam Babu, Sri Ram Babu and Sri Ajay Kumar Rai. After transfer of the right, title and possession over the property in question, the respondent No. 8 was coming in peaceful possession and all other allegations made in the writ petition are false, baseless and without any substance.

6. Apparently, several disputed questions relating to

right, title and possession have been raised by the petitioner in the present writ petition. It is well settled that such issues cannot be decided in a writ proceeding.

7. Having considered the submission of learned counsel for the petitioner, I am of the opinion that the writ petition is misconceived. There are several disputed questions of fact involved in the present case, which cannot be decided in writ jurisdiction. Even otherwise, the dispute involved in the instant case is entirely between two private parties, which cannot be a subject matter of a writ of mandamus under Articles 226 of the Constitution.

8. In that view of the matter, the application is disposed of with liberty to the petitioner to seek other equally efficacious remedies available in law for redressal of his grievance.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.07.2016
Transmission Date	21.07.2016