

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.358 of 2015

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

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Madhuri Pandey wife of Suman Kumar Pandey, resident of village - Fatehpur,
Baipass Road, Siwan, P.S. - Siwan Town, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through D.G.P. Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. District Magistrate, Siwan.
4. Superintendent of Police, Siwan.
5. City Superintendent of Police, Siwan.
6. S.H.O. Nagar Thana, Siwan.
7. Brijkishore Singh son of Late Butai Singh
8. Mahesh Prasad son of Suresh Prasad
9. Brijkishore Prasad son of Late Suresh Prasad

All are residents of Mohalla - Fatehpur Baipass, P.S.- Siwan town, District-
Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Prasad Singh, Advocate
For the Respondent/s : Mr. Harish Kumar, G.P.-32

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-02-2016

The petitioner has prayed for following reliefs in paragraph-
1 of the writ petition.

“1. That this is an application for issuance of writ/writs,
and/or order/orders and/or direction/directions for
the following reliefs:-

- (i) For issuance of writ of Mandamus commanding the
respondent authority to save the life and properties
of the petitioner and her family members from the
private respondents who are adamant to grab the
house of the petitioner after killing her and her

family members.

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- (ii) For issuance of writ of Mandamus commanding the respondent authority particularly respondent no.1 to make proper enquiry through a reliable agency or reliable authority regarding the dispute between the petitioner and private respondents.
 - (iii) For issuance of writ of Mandamus commanding the respondent authority particularly respondent no.1 to take legal action against the respondents No.2 to 6 in not discharging their official duties in its true sense and in not taking action in proper manner into the matter and to give illegal favour to private respondent No.7 to 9.
 - (iv) For issuance of such other appropriate writ or order or direction which may deem fit and proper for the ends of justice.”

2. It is vaguely stated in paragraph-4 of the application that the house was purchased by one Muni Mahesh Patel, the grandfather of the petitioner, from Brahmdeo Kahar, the original land owner and thereafter, the grandfather of the petitioner gifted the house to the petitioner and since then she is coming in possession to the house. Neither the date of purchase nor the date of gift nor the details of the property has been mentioned in the application.

3. It has been contended by the learned counsel for the petitioner that the private respondent no.7, namely, Brijkishore Singh,



along with his henchmen being variously armed came to the house of the petitioner on 23rd October, 2013 and threatened to kill her pursuant to which she filed an application before the Superintendent of Police, Siwan, to take legal action but no steps have been taken so far. It is also contended that the petitioner filed a petition before the Station House Officer of town police station, Siwan, on 24th June, 2014 stating therein that the respondent no.7 Brijkishore Singh along with some others entered into her house and started making construction illegally but that also did not evoke any response. It is further contended that the private respondents are regularly harassing the petitioner as a result of which she apprehends threat to her life.

4. A counter affidavit has been filed on behalf of the State. It has been contended by the learned counsel for the State that the contentions made in the application are far from the truth. There is case and counter case between the parties. The cases are being investigated in a fair and impartial manner. In some of the cases even reports under section 173(2) of the Code of Criminal Procedure have already been submitted in the court and the matter is pending adjudication in the court. He has further contended that the bone of contention between the parties is a house situated at Mohalla Fatehpur in the township of Siwan. In view of the dispute between the parties, the police have taken appropriate steps to check apprehension of

breach of peace. A proceeding under section 107 of the Code of Criminal Procedure has already been initiated between the parties and pursuant to the order of the learned Sub-Divisional Magistrate, an enquiry was also conducted by the Circle Officer and the Officer-in-charge of the local police station, who have reported that the respondent no.7 is the real owner of the house in dispute and the petitioner is one of the tenants in the said house.

5. In reply, learned counsel for the petitioner has contended that the statements made in the counter affidavit are collusive in nature and it is not a fact that the house in question belongs to the respondent no.7.

6. Be that as it may, in view of several disputed questions of fact as also in view of an equally efficacious remedy being available to the petitioner for the redressal of her grievance, I am not inclined to entertain the present writ petition.

7. Accordingly, the application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

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