

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.497 of 2014**

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Drawpadi Dwivedi, Wife of Sri Ram Nivas Dwivedi, Resident of village- Ugo, P.O.- Khujwa, P.S. & Circle- Raghunathpur, District- Siwan; Presently residing at Flat No.A-1104, Koyala Vihar, Vasundhara, V.I.P. Road, P.O.- Airport, Kolkata, West Bengal.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Home, Government of Bihar Patna.
3. The Secretary, Home (Police) Department, Government of Bihar, Patna.
4. The Director General of Police, Government of Bihar, Patna.
5. The Inspector General of Police, Muzaffarpur.
6. The Deputy Inspector General of Police, Saran Range, Chapra.
7. The Superintendent of Police, Siwan.
8. The Thanadhyaksh, Sarai Police Station, Makdoom Sarai, District- Siwan.

.....Respondent 1<sup>st</sup> Set

9. The Bihar State Sugar Corporation through its Managing Director at Arunalaya, Ram Jaipal Nagar, Bailey Road, Patna
10. The Cane Commissioner cum Managing Director, Bihar State Sugar Corporation Limited at Sugar Cane Industry Department Vikash Bhawan, Near Secretariat, Patna.
11. The S.K.G. Sugar Mill Siwan Unit (Bihar State Sugar Corporation Limited) at Makdoom Sarai, P.O. & District- Siwan, through its General Manager.
12. The General Manager, S.K.G. Sugar Mill Siwan Unit (Bihar State Sugar Corporation Limited) at Makdoom Sarai, P.O. District- Siwan.

.....Respondent 2<sup>nd</sup> Set



13. The District Magistrate Siwan.

14. The Circle Officer, Hussainganj, District- Siwan.

.....Respondent 3<sup>rd</sup> Set

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s :Mr. Subash Kumar, Adv.

For the State :Mr. Chandra Shekhar Singh, AC to GA-10

For the BSSC :Mr. Gyan Shankar, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI  
SHARAN SINGH**

ORAL JUDGMENT & ORDER

**Date: 01-12-2016**

This writ application, under Article 226 of the Constitution of India, has been filed seeking a direction commanding the respondent authorities to refrain from interfering with the peaceful possession and construction over the private land of the petitioner as described in paragraph 3 of the application. The petitioner has also sought for following relief as described in paragraph 1 (b) of the application:-

"1 (b) And further for a direction to the respondent 1<sup>st</sup> set to give protection to the petitioner so that she can construct over his private land as described in Para 3 of this writ application; on amongst others the following grounds:-

i. For that the land, as described in Para 3 of this writ application is the private land of the petitioner, which she has purchased on



25.10.1983 and thereafter the mutation was done in the year 1990-1991 and she has paid the rent to the Government of Bihar till date.

ii. For that since the purchased of the land, the petitioner is in possession of the land and she was doing cultivation work, over the land concerned, through her agents and servants.

iii. For that on 22.04.2013 the land was properly measured and demarcated by the Anchal Amin, in the presence of all the boundary Raiyats.

iv. For that the Respondents 2<sup>nd</sup> set are having no concerned with the lands of the petitioner and then too, they are asserting their verbal claim over the lands of the petitioner and at the instances of Respondent No. 12 the Respondent No. 8 has interfered in the construction of the petitioner; over her private land and has ordered to stop the construction work.

v. For that the petitioner has shown each and every document with regard to her bonafide of the claim, but the same was neither examine by the Respondent No. 8 nor any enquiry was made from the Circle Office and in connivance with the Respondent No. 12, the Respondent No. 8 has verbally ordered to stop the construction work.

vi. For that due to the illegal approach and order of the Respondent Authorities, the



petitioner is suffering from an injury over the construction materials and obstruction in the construction work.

vii. For that due to the illegal action of the Respondent Authorities the Fundamental Rights of the petitioner, as enshrined in the constitution of India has been violated.”

**2.** Earlier by an order, dated 05.02.2015, this application was dismissed on the ground that it involved several disputed questions of facts relating to right, title and possession over the disputed land, which could not be determined by this Court in a proceeding under Articles 226 and 227 of the Constitution of India. The petitioner, thereafter, approached the Supreme Court, under Article 136 of the Constitution of India, which came to be finally disposed of by an order, dated 06.07.2015, passed in Cr. Appeal No. 862 of 2015, with the following observation:-

“It is submitted by learned counsel for the petitioner that the High Court has failed to appreciated that the SHO, P.S. Maqdoom Sarai, District Siwan has stopped the construction on the plot in question. It is urged that the said property belongs to the petitioner. We are not concerned with regard to the right, title and interest of the petitioner. The crux of the matter is whether the police can, in such a situation, stop the construction. In our considered opinion, the High Court should have dwelled upon the issue and not



dismissed the writ petition in limine on the ground that several disputed questions of fact are involved.

In view of the aforesaid, we are inclined to set aside the order dated 05.02.2015 passed in Criminal Writ Jurisdiction Case No.497 of 2014 and remit the matter to the High Court to pass a cogent and reasoned order."

**3.** In the background of the above, the present writ application has been listed for disposal before me.

**4.** I have heard learned counsel for the petitioner and learned counsel representing the Bihar State Sugar Corporation Limited (*hereinafter referred to as the Corporation*) and S.K.G. Sugar Mill, Siwan, a unit of the Corporation. I have also heard learned counsel representing the State of Bihar.

**5.** Learned counsel, appearing on behalf of the Corporation, has submitted that the land in question, in fact, belongs to the Corporation and it is in possession of the Corporation. This fact is being disputed by learned counsel, appearing on behalf of the petitioner. It has further been submitted by learned counsel, appearing on behalf of the Corporation, that a title suit, bearing No. 806 of 2010, pending before learned Sub-Judge-III, Siwan, had been instituted at the behest of one Dr. Harooq Ahmad, heirs of the erstwhile



owners of the concerned sugar mill. In the said title suit, the petitioner and the Corporation are also parties. There is no dispute that the suit involves disputes on the questions of title and possession over the suit property.

**6.** Coming to the order passed by the Supreme Court, in relation to the grievance of the petitioner that the police is stopping construction being made over the suit property by him, I find, on careful perusal of the averments made in the writ application, that there is absolutely no assertion that the police are stopping construction over the land being made by the petitioner. Learned counsel, appearing on behalf of the petitioner, has, however, drawn my attention to the representations filed by the husband of the petitioner before the Superintendent of Police, Siwan, in which it has been indicated that some interested persons are, with the help of the local police, trying to obstruct construction over the said land.

**7.** However, in the absence of any specific averment to this effect in the writ application, it is difficult for this Court to accept the stand taken on behalf of the petitioner that the local police are, in any manner, causing obstruction in any construction over the land in question proposed to be made by the petitioner.

**8.** Learned counsel, appearing on behalf of the



respondents-State of Bihar, has submitted that there would be no question of any obstruction being caused by any local police without any valid order of a court of competent jurisdiction.

9. Regard being had to the specific stand taken on behalf of the respondents-State of Bihar and the fact that the allegations, made in the petition, involves disputed questions of fact, this application is disposed of with an observation that without any authority, under the law, no police personnel shall interfere with peaceful possession of the parties over the land in question.

10. This application stands disposed of.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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