

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1141 of 2015

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

Sanjay Singh, S/o Late Kusheshwar Singh, village + Post- Kharika (Gangajal),
P.S.- Sonapur, District-Saran presently at 20A, N.S. Road, P.S.- Hare Street,
Kolkata (W.B.)

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar, Patna
2. The Deputy Inspector General of Police, Saran Range, Chapra.
3. The Superintendent of Police, Saran
4. The Sub-Divisional Police Officer, Sonapur, Saran
5. The Sub-Divisional Magistrate, Sonapur, Saran
6. The S.H.O., Sonapur Police Station, District- Saran
7. The Officer-in-Charge, Pahleza Out -post, Sonapur, District- Saran
8. The Circle Officer, Sonapur, District- Saran
9. Sudeshwar Singh, S/o Late Rajnarayan Singh, permanent resident of village+
Post- Noonsar, P.S.- Sultanganj, District- Bhagalpur, presently at village+ Post-
Kharika (Gangajal), P.S.- Sonapur, District- Saran

.... Respondents

Appearance :

For the Petitioner/s : Mr. Bishwajeet Singh, Advocate

For the Respondent/s : Mr. Gautam Bose, AAG-8

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-03-2016

By way of filing the present application under Articles
226 & 227 of the Constitution of India, the petitioner seeks a
direction to be issued to the respondent authorities to provide
possession to the petitioner of the house situated at plot no. 1163,

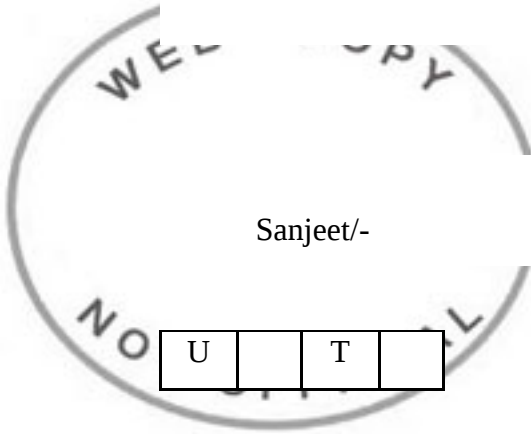
Khata no. 85, Thana No. 82 in village-Kharika, Sonepur, Saran.

The contention of the petitioner is that the uncle of the petitioner has forcefully occupied the aforesaid house since 2008 and a civil suit in this regard being Civil Suit No. 69 of 2008 was also filed before the court of competent jurisdiction Saran at Chapra. However, the said suit stood dismissed for default and an application for restoration has also been filed, which is still pending before the court.

It has been contended that since the court is vacant, the Misc. Case No. 3 of 2014 filed for restoration of the Civil Suit No. 69 of 2008 is not being taken up and, therefore, the petitioner has filed the present application under Articles 226 and 227 of the Constitution of India.

In my view, the application is misconceived. Pleadings made in the application would indicate that several disputed questions of fact have been raised in the present writ petition. The same can only be determined by leading evidence for which the petitioner has already filed an appropriate application before the Civil Court. Only because the court is vacant, an application under Articles 226 & 227 of the Constitution of India cannot be entertained in order to decide disputed question relating to right, title, possession, etc.

Accordingly, the application, being devoid of any merit, is hereby dismissed.



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(Ashwani Kumar Singh, J.)