

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1937 of 2017

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Soven Lakra, daughter of Hanuk Lakra, resident of Mohalla- Ishwari Nagar, Near Mahabir Cancer Sansthan, P.S. Phulwarisharif, District- Patna.

.... Petitioners

Versus

1. The State of Bihar, through the Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Director General of Police, Old Secretariat, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Circle Officer, Phulwarisharif, Patna.
6. The Station House Officer, Phulwarisharif, Patna.
7. Suresh Rai, Son of late Deosharan Rai, Vill- Mahauri Bagicha, P.S. - Maner, Dist- Patna

.... Respondents

With

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Civil Writ Jurisdiction Case No. 1945 of 2017

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Md. Iqbal Ganni, Son of Abdul Manan, Resident of Lodipur, P.S. Khushrupur, District- Patna.

.... Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Director General of Police, Old Secretariat, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Circle Officer, Phulwarisharif, Patna.
6. The Station House Officer, Phulwarisharif, Patna.

.... Respondents

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Appearance:

(In CWJC No.1937 of 2017)

For the Petitioner/s : Mr. Sanjay Kumar Ojha, Advocate.
For Respondent No.7 : Mr. Sushil Kumar Singh, Advocate.
Mr. Ajay Kumar Singh, Advocate.

(In CWJC No.1945 of 2017)

For the Petitioner/s : Mr. Sanjay Kumar Ojha, Advocate.
For the State : Mr. Nutan Sahay, AC to AAG-12.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 20-02-2017

This order shall dispose of C.W.J.C. Nos. 1937 of 2017



and 1945 of 2017, wherein writ applications were filed against the threatened demolition of their respective houses on 04.02.2017. This Court intervened and passed ad interim injunction on 06.02.2017. Thereafter, an intervention application was filed by one Suresh Rai which was allowed.

2. The stand of the intervener was that he had filed a Title Suit which was decreed *ex parte* against the present writ applicants on 31.08.2015. Therefore, the present writ applicants appeared before the Executing Court and that the Executing Court passed an order on 10.01.2017 which is, inter alia, to the following effect.

“Coming back to the prayer of the JDs, the order sheets clearly reveal that in spite of grant of more than sufficient opportunities they have miserably failed to show their *bona fides*. The petition smacks of their intention to somehow delay the execution proceedings. They appeared as long back as on 16.05.2016 with the prayer for time to file their objection petition, which still has not been filed. Therefore, there prayer for grant of one month for filing objection cannot be entertained now. The petition is accordingly rejected.

The office is directed to issue letters to the District Administration intimating them about the deposit of requisite cots by the DH, and directing them to deploy forces for carrying out execution proceedings effectively. Office is also directed to issue a fresh writ for delivery of possession to the *Nazir*, Civil Court, Patna who, in turn, is directed to coordinate with the District Administration with regard to availability of police force, and to submit his report within 15 days from today.

Put up on 09.02.2017 for compliance report.”



3. In pursuance of such order, the District Administration initiated the process of demolition which the petitioners have conveniently not disclosed in the writ application and got *ex parte* stay of the demolition by misstating and concealing the material facts.

4. Since this Court was made to believe that it is the highhandedness of the District Administration without serving any notice or initiating any proceeding, therefore, this Court interfered. The District Administration was, in fact, acting in terms of the order passed by the Civil Court.

5. Consequently, we find that invocation of the writ jurisdiction of this Court is by concealing and misstating the material facts. By such misstatement and concealing of facts, the writ applicants have abused the process of law, thus, both the writ applications are dismissed with cost assessed at Rs. 50,000/- (Rupees Fifty Thousand) each to be deposited with Patna High Court Legal Services Committee within one month.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.03.2017
Transmission Date	

