

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18119 of 2016**

=====

Chhotan Prasad Sharma, Son of Late Baldeo Sharma, Resident of Village - Sirdalla, P.S. Sirdalla, District Nawadha, at Present Resident at D/27 Motibag, New Delhi 21, P.S. R.K. Puram, Sector - 12, New Delhi

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Nawada
3. The Superintendent of Police, Nawada
4. The Station House Officer, Sirdalla, District Nawada
5. Anil Prasad Yadav @ Anil Prasad Son of Late Devki Prasad Yadav  
Resident of village - Gulabnagar, P.S. Sirdalla, District - Nawada

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Amit Kumar Anand, Adv.  
For the Resp. –State : Mr. Rishi Raj Sinha- SC-19  
Mr. Birendra Prasad Singh, AC to SC-19

=====

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      25-07-2017                      Heard Mr. Amit Kumar Anand, learned Counsel appearing on behalf of the petitioner and Mr. Rishi Raj Sinha, learned SC-19, appearing on behalf of Respondent Nos. 1 to 4, assisted by Mr. Birendra Prasad Singh, learned AC to SC-19.

The present writ application has been filed for a direction to respondent authorities to ensure the peaceful possession over the land of the petitioner, pertaining to C. S. Khata No.92, C.S. Plot No.1321, R.S. Plot No.2973, R.S. Khata No.112, situated, in Mauza –Sirdalla, P.S.-Sirdalla, District – Nawada, which has been forcefully occupied by Respondent No.5,



namely, Anil Prasad Yadav, in spite of the fact that in pursuance to the decree passed in Title Suit Nos. 225 of 1996/236 of 1999, in favour of the petitioner and the said decree and judgment being affirmed in Title Appeal Nos.34 of 2000/ 01 of 2014, vide Judgment and order dated 16<sup>th</sup> December, 2015, passed by the learned Additional District Judge-II, Nawada, and in pursuance to the same the petitioner came in possession of the land in question though, Execution Case No.02.07.2009 being initiated and disposed of vide order dated 02.07.2009, passed by the Additional Munsif-VI, Sirdalla, Nawada.

It is submitted by learned Counsel appearing on behalf of the petitioner that the petitioner is not allowed to enjoy the fruits of the land in question due to high handedness of Respondent No.5. On the basis of frivolous written report by Soni Kumar, the daughter of Respondent No.5, a proceeding under section 107 of the Code of Criminal Procedure has been initiated just to deprive the petitioner from enjoying the fruits of the decree passed in favour of the petitioner.

This Court is reluctant to interfere with the issue of recovery of possession since in exercise of power under Article 226 of the Constitution of India, this cannot be decided whether Respondent No. 5 has taken the possession of the land of the



petitioner which was delivered to him in pursuance to delivery of possession in the Execution Case No.1 of 2003 and the same can only be resolved through a suit by a civil Suit.

However, the petitioner is not precluded to report the local administration for redressal of his grievance.

However, the present order will not preclude the petitioner to take resort to appropriate remedy available under the law.

**(Dinesh Kumar Singh, J)**

Ashwini/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

