

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16382 of 2016

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Dev Narayan Ganesh Son of Late Dudhi Lal Ganesh Resident of Village- Nawduba,
Police Station- Kurlikot, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Bihar Patna.
2. The Sub-Divisional Magistrate, Kishanganj.
3. The Superintendent of Police, Kishanganj.
4. The Anchal Adhikari, Thakurganj Anchal, District- Kishanganj.
5. The Officer-in-Charge of Kurlikot, District- Kishanganj.
6. Radhekishwar Jha Son of Ravinath Jha, Resident of Thakurganj, Police Station- Thakurganj, District- Kishanganj.
7. Rupchand Ganesh.
8. Bang Ganesh.
9. Lal Ganesh

All Respondent Nos. 7 to 9 are Sons of Mahadev Ganesh, All residents of Chanmari,
Police Station- Thakurganj, District- Kishanganj.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Baxi S. R. P. Sinha, Sr. Advocate with Mr. Satish Kumar Sinha, Advocate
For the State	:	Mr. Raj Kishore Roy, G.P. 18 with Ms. Bandana Singh, AC to GP 18
For the Respondent No. 6	:	Mr. P. N. Shahi, Sr. Advocate with Mr. Sandeep Kumar and Mr. Ajit Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 20-02-2017

Heard learned counsel for the petitioner, State and the respondent no. 6. Despite notice validly being served on the respondents no. 7, 8 and 9, nobody has appeared on their behalf when the case was taken up and heard.

Pursuant to order dated 10.02.2017, the Sub-Divisional Magistrate, Kishanganj is personally present along with the entire records.

The petitioner had moved the Court for the following reliefs:

“(A) To quash the order passed by the respondent Sub-Divisional Magistrate, Kishanganj contained in memo no. 291C dated 04.04.2016 whereby and whereunder the respondent Anchal Adhikari, Thakurganj has been deputed to get handover the possession of the parties for the disputed plot of Case No. 447M of 2007 under Section 145 of the Code of Criminal Procedure after its disposal of 6 years back that too in absence of any finding that the first party (Case No. 447M of 2007) was dispossessed from the disputed land at any point of time or was dispossessed within a period of two months from the date of initiation of the proceeding.



(B) To direct the respondents not to interfere with the peaceful possession of the petitioner regarding disputed land of case no. 447M of 2007 till disposal of the present writ application.

(C) To pass such other order/orders or direction as may deem fit and proper in the facts of the case.”

Learned counsel for the petitioner submitted that the order dated 04.04.2016 for handing over possession of the land in question is illegal as the Sub-Divisional Magistrate, Kishanganj has no such power. It was submitted that there was in fact no order for any restoration of possession even in the impugned order dated 11.11.2011 passed by the then Sub-Divisional Officer, Kishanganj in Case No. 447M/2007 under Section 145 of the Code of Criminal Procedure, 1973.

Learned counsel for the respondent no. 6 has raised a preliminary objection and submitted that the petitioner not having moved the Court with clean hands, the writ petition should be dismissed at the very threshold. He submitted that the order dated 04.04.2016, which is impugned herein, stood implemented by delivery of possession in favour of the respondent no. 6 and though the writ petition has been filed in September, 2016, the said fact was required to be disclosed in the writ petition and not doing so is a clear



suppression of material facts from the Court. He also submitted that even in the writ petition the petitioner has not disclosed as to when and on which date he resumed his possession, after 04.04.2016.

Learned counsel for the State submitted that the dispute is of purely civil nature between the parties, who claim right, title and possession over the land in question, on the basis of different sale deeds, for which the State authorities are not required to take any side and which has to be adjudicated by the Civil Court of competent jurisdiction.

At this juncture, learned counsel for the petitioner submitted that he is still in possession over the land in question. Such fact is disputed both by learned counsel for the State as well as learned counsel for the respondent no. 6, both on the basis of their instructions and also on the basis of what is reflected from the official records.

At this juncture, before the Court could proceed to adjudicate the matter on merits, it was agreed at the Bar that the writ petition be disposed off by directing to maintain *status quo*, as of today, till the matter is resolved in accordance with law before the competent forum in future, at the instance of any of the parties.

In view thereof, the writ petition stands disposed off in the aforementioned terms. It is made clear that the role of the



administration shall be restricted to maintaining law and order at the ground level, in accordance with law.

Personal appearance of the Sub-Divisional Magistrate, Kishanganj stands dispensed with.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
Uploading Date	

