

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19042 of 2014

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Arjun Das Son of Late Kartik Das, Resident of Village - Rajani Prasadi Chowk,
PO.- Rajani Goth, P.s.- Murliganj, District - Madhepura

.... Petitioner

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna
4. The I.G. Darbhanga Range, Darbhanga
5. The District Magistrate, Madhepura
6. The Superintendent of Police, Madhepura
7. The Sub- Divisional Officer, Madhepura
8. The Deputy Superintendent of Police, Madhepura
9. The Circle Officer, Murliganj, Madhepura
10. The S.H.O. Murliganj Police Station Murliganj, Madhepura

... .. Respondent 1st Set.

11. Ram Awatar Yadav, Son of not known to the petitioner at present working as
Circel Office, Ancal Murliganj, Madhepura
12. Mukesh Kumar Mukesh Son of not known to the petitioner at prset S.H.O.
Murliganj Polie Station Murligan, Madhepura

... .. Respondent 2nd Set.

13. Faruk Mian Son of Munsii Mian
14. Sartaj Mian Son of Faruk Mian
15. Uday Chand Yadav Son of Lalha Yadav
16. Shashi Kant Yadav
17. Chandra Kant Yadav Son of Uday Chand Yadav Resident of Village + PO.-
Rjani Goth, P.S.- Murliganj, District -Madhepura
18. Ashok Kumar Chourasia Son of Jamuna Chourasia Resident of Village - Rajani
Milki, P.O.- Rajani Goth, P.S.- Murliganj, District -Madhepura
19. Shashi Kumar Son of Braj Kishore Das
20. Nishi Kumar Son of Braj Kishore Das Resident of Village - Rajani Bathnaha,
ward no. 17, P.O.- Rajani Goth, P.S.- Murliganj, District - Madhepura

.... Respondent 3rd Set.

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Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey, Adv.
For the Respondent/s : Mr. Anant Pd. Singh, S.C.-15
Mr. Sanjay Kumar, A.C. to S.C.-15.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 28-03-2017

Heard Learned counsel for the petitioner and learned



S.C.-15 for respondent nos. 1 to 10.

The present writ application has been filed for a direction to the respondent authorities to restore the possession of the petitioner over the land appertaining to old khata no. 74, new khata no 524, old plot no. 3355, new plot no 5512 measuring an area of 2 kathas situated in Mauza Rajani in the District of Madhepura and the house of the petitioner be restored upon the land after demolishing the structure forcibly erected by the respondent 2nd set in connivance with respondent 3rd set. Prayer has also been made for a direction to take disciplinary action against respondent 2nd set Ramavtar Yadav, Circle Officer, Murliganj Block and Mukesh Kumar Mukesh, SHO, Murliganj Police Station who in connivance with respondent 3rd set, have forcibly got the land of the petitioner encroached and demolished the house of the petitioner despite being in knowledge of the order dated 27.08.1997 passed in Misc. Case No. 271/1990/ T.R. no. 145/95/180/95, as contained in annexure 5, whereby the possession of the petitioner was declared. The prayer has also been made for making payment of compensation to the petitioner for the loss suffered by him.

I.A. No. 1155 of 2017 has been filed for a direction to the respondent 1st set for restraining respondent 3rd set from making construction over the land of the petitioner.



I.A. No. 1155 of 2017 is disposed of with liberty to the petitioner to make such prayer before the appropriate forum before which the title suit is pending.

It is submitted by Learned counsel of petitioner that the land in question is the Raiyati land of the petitioner which was purchased by his father and the said plot fell into the share of the petitioner but the adjacent land was initially purchased by the father of respondent no. 13 and subsequently it was sold to respondent nos. 16 and 17. In 145 Cr.PC proceeding, the possession of the petitioner was declared but the private respondent tried to encroach the land of the petitioner for which the measurement was done but on 20.09.2014 respondent 2nd set Circle Officer along with S.H.O Murliganj Police Station alongwith police force and respondent 3rd set and other persons went upon the land of the petitioner and got the house of the petitioner, situated on the disputed land, demolished. Thereafter, the petitioner filed the petition before S.D.O., Madhepura on 20.09.2014, as contained in Annexure 10, and before District Magistrate, Madhepura, as contained in Annexure-11, but no action has been taken. Hence, the present writ application.

It is submitted by learned S.C.-12 that on the basis of the report of Amin dated 15.09.2014 along with trace map, it was found that one Rajeev Kumar son of the petitioner is trying to



encroach upon and claim possession on more area of the land than was mentioned in his sale deed for which Title Suit No. 298 of 2014 has been filed. In paragraph no.22 of the plaint, it was admitted that the poles were fixed on the land of the petitioner by the respondent 3rd set. In paragraph no. 14 of the counter affidavit, the allegation of demolition of house of the petitioner has been denied. Paragraph no. 14 of the counter affidavit reads as follows:-

“That with regard to the statement made in para 20 to 23 and 29 and 31 of the writ petition under reply it is stated that these are not true hence denied.”

Considering the rival submissions of the parties, it appears that the title and possession over the land in question is seriously disputed. Title Suit No. 298 of 2014 is pending. The contention of demolition of the house of the petitioner has been denied in paragraph no. 14 of the counter affidavit filed on behalf of the District Magistrate. From the averments made in paragraph no.22 of the plaint and prayer to the effect that possession of the petitioner be restored, the claim of the petitioner with regard to his possession is prima-facie inconsistent. However, the nature of dispute cannot be resolved in the present proceeding in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, hence, this Court is not inclined to interfere.



Accordingly, the present writ application is dismissed.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04/04/2017
Transmission Date	N/A

