

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1136 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Vikas Singh S/O Late Suresh Pratap Singh Presently Residing At Mithila Nikunj Rainbow Street, North S.K. Puri, P.S. S.K. Puri, District - Patna And Having Permanent Resident Of B-50 Defence Colony, P.S. Defence Colony, New Delhi - 110024
 2. Vivek Singh S/O Late Suresh Pratap Singh Resident of 172, Pushphanjali, Vikas Marg Extn. P.S. Anand Bihar, Delhi - 92

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home, Government Of Bihar, Patna
2. The Director General Of Police, Government Of Bihar, Patna
3. The Inspector General Of Police, Government Of Bihar, Patna
4. The Deputy Inspector General Of Police, Central Range, Patna
5. The District Magistrate, Patna
6. The State House Officer, S.K. Puri Police Station, Patna
7. Sri S.K.P. Sinha Son Of Late Chandeshwar Pd. Sinha R/O Mohalla - Budha Colony, P.S. Budha Colony, Distt. - Patna
8. Mrs. Urmila Sinha W/O Mr. S.K.P. Sinha R/O Mohalla - Budha Colony, P.S. Budha Colony, Distt. - Patna
9. The City S.P. Patna
10. The Officer-in-Charge, Buddha Colony P.S. , Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. J. S. Arora, Sr. Advocate Mr. Manoj Kumar, Advocate Mr. G. Pratap, Advocate Ms. Aishwarya, Advocate
For the Respondent/s	:	Mr. Deepak Kumar, AC to SC-5
For Pvt. Respondents	:	Mr. Shiv Shankar Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 01-12-2017

Heard learned counsel appearing for the parties.

2. The present writ application has been preferred for a command to the State-respondent Nos.1 to 6 to protect the right of the petitioners to repair his boundary wall on the referred property against



respondent Nos.7 and 8.

3. It appears that the petitioners had filed Title Suit No.13 of 1995 against respondent Nos.7 & 8 for a relief of recovery of possession and removal of obstruction created at the hands of the aforesaid respondents on the referred land. Details of the land mentioned in paragraph 4 of the plaint. The suit was decreed vide Annexure-1. The decree was challenged in Civil Revision No.1276 of 2003 before this Court and the Civil Revision was dismissed on 04.12.2006 with certain liberty to respondent Nos.7 and 8 to file a civil suit, if so advised. The respondents further challenged the said order before the Supreme Court in Special Leave to Appeal (Civil) No.7232 of 2007, which was dismissed on 30.04.2010. The aforesaid orders are available at Annexures-2 and 3 to the writ application. Thereafter the petitioners filed execution case for execution of the aforesaid decree and vide order and report available at Annexure-5/1 the decree was executed.

4. Submission of the learned counsel for the petitioners is that after execution of the decree and delivery of possession in favour of the petitioner no one has lawful right to interfere with the possession of the petitioner unless the order is set aside by a competent Court.

5. On the other hand, learned counsel for the respondents



submits that, in fact, the execution was affected on the land other than that over which decree was granted and when the respondent Nos.7 and 8 raised this issue before the Execution Court, the same is pending consideration since long before the execution Court.

6. Learned counsel for the respondent further submits that the respondent Nos.7 and 8 brought a suit bearing Title Suit No.153 of 2001 before the learned Court-below against the petitioner and the petitioner filed a petition thereat for rejection of the plaint under Order VII Rule 11 CPC, which was rejected by the learned Court-below and thereafter the petitioner challenge the same before this Court in Civil Revision Application which was allowed and the rejection of the plaint was ordered. Thereafter the Review Petition filed by respondent Nos.7 and 8 is still pending in the sense that the same was dismissed for default and for restoration of the same the application is pending.

7. So far up-to-date position of the case is that the judgment and decree passed by the learned trial-court in respect of 2 Katha 13 Dhurs of land pertaining to Survey Plot No.179 under Khata No.155 corresponding to holding No.494/414B Circle No.246 in village Dujra, P.S. Buddha Colony, District- Patna, was affirmed up to the Hon'ble Supreme Court and thereafter the decree was executed and possession was handed over to the petitioners. If, in future, the



aforesaid situation is disturbed by a competent Court the same would take its own force. However, as on date the petitioners are entitled to police protection otherwise it would amount to failure of rule of law.

8. Hence, the State-respondents specially respondent No.5, the District Magistrate, Patna, and respondent No.10, the Superintendent of Police, Patna (In-Charge of the area), are directed to provide protection to the petitioners in repairing of the boundary wall by the petitioner only.

9. Accordingly, this application stands disposed of.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2017
Transmission Date	

