

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9678 of 2014

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Uday Shanker Mehta, Son of Late Ram Chandra Mahto (Father) Shrimati Tara Devi (Mother), Permanent resident of Villlage- Haripur Jakhara, P.S- Kalyanpur, District- Samastipur (Bihar). At present residing at in Service Chittorgarh (Rajasthan) Clerk in Birla Cement Factory, P.S. Chanderia, District (Rajasthan).

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Home Department, Bihar, Patna.
2. The District Magistrate, Samastipur, Bihar.
3. The Superintendent of Police, Samastipur, Bihar.
4. The D.C.L.R., Samastipur, Bihar.
5. Jogi Mandal Son of Jageshwar Mandal.
6. Anil Kumar, Son of Jogi Mandal.
7. Kiran Devi, Wife of Anil Kumar, All resident of Village- Dhruvagama, P.S- Kalyanpur, District- Samastipur (Bihar).
8. Sunita Devi (Sister of petitioner Uday Shanker Mehta) Wife of Aashutosh Kumar Patel.
9. Aashutosh Kumar Patel (Husband sister (Sunita Devi) of petitioner Uday Shanker Mehta), Son of Late Ram Julum Prasad, Both resident of Village- Sormar Bagala, P.S- Chak Mahisi, District- Samastipur (Bihar).
10. Tara Devi (Mother of petitioner Uday Shanker Mehta & Respondent No. 8 Sunita Devi), Wife of Late Shri Ram Chandra Mahto, Resident of Village- Haripur Jakhara, P.S- Kalyanpur, District- Samastipur (Bihar), Presently residing at Respondent No. 8, Sunita Devi at Village- Sormar Bagala, P .S- Chak Mahisi, District- Samastipur (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pancham Lal Jaiswal, Advocate

For the Respondent/s : Mr. Rakesh Kumar Shrivastava, A.C. to G.P. 15

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 09-01-2017

Heard learned counsel for the parties.

The writ petition has been filed seeking the following

reliefs:

“(i) For issuance of an appropriate writ or writs in the nature of mandamus commanding upon the respondents authority for the protection of the property of the petitioner which has been purchased by the father of the petitioner in name



of Mother (Tara Devi) of the petitioner in year 1978 and 1980 in which paternal house and horticulture land of the petitioner lies to which respondent want to damage or to make the petitioner without paternal house and land in his native village/birth place.

(ii) For issuance of writ in the nature of mandamus commanding upon respondent no. 1 to 4 to forthwith restore the possession of the petitioner over paternal property of the petitioner and to make thorough enquiry in the matter and then decided whether land in question is the house and horticulture land of the petitioner can't be sold by widow lady whose health is not fit to transfer any land/property who is under treatment of Medical Practicener.

(iii) For commanding and directing the respondent no. 5 to 9 not to take the land in their name of their relative/friends transferred without the consent of petitioner and his brother who are living for their livelihood out of state of Bihar.

(iv) Any other relief(s) as deem fit and proper."

At the very outset, learned counsel for the State submitted that in view of the nature of the relief sought, the same being a purely private and civil dispute, the petitioner ought to move before the civil Court of competent jurisdiction.

Having heard the parties and considered the matter, the Court finds substance in the contention of learned counsel for the State. The relief, as sought for in the writ petition, cannot be granted by the Court under its writ jurisdiction as facts have to be thrashed



out.

In view of the aforesaid, the writ petition stands disposed off with liberty to the petitioner to approach the civil Court of competent jurisdiction with regard to the relief sought for in the present writ application.

(Ahsanuddin Amanullah, J.)

P. Kumar

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