

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.699 of 2018

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Ashok Kumar Rai @ Ashok Rai S/o Harendar Rai, R/o Village- Pahleza,
Sahpur, Diara, P.S.- Sonapur, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar Through Directorate General of Police Sachivalay, Patna.
2. The District Magistrate, Saran, Chapra.
3. The Superintendent of Police, Saran, Chapra.
4. The Police Inspector, Sonapur, Saran, Chapra.
5. The Officer-In-Charge, Police Station , Sonapur.
6. Sailendar Kumar Rai, S/o Late Sitalnarayan Rai, R/o Village- Pahleza, Sahpur Diara, P.S.- Sonapur, District- Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Tiwary, Adv.

For the Respondent/s : Mr. Sheo Shankar Prasad (Sc8)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 26-07-2018 The petitioner has moved this Court seeking a writ of mandamus commanding the respondent nos. 2 and 3 for opening the Parchun Shop said to be situated at Khata No.116, Kheshra No.1028 area 2 Katha 2 Dhoor which according to the petitioner has been sealed by the order dated 04.12.2016 passed in Case No.518 of 2015.

Learned counsel for the petitioner submits that the order dated 04.12.2016 has already been set-aside by the learned Additional Sessions Judge I, Saran, Chapra, in Criminal Revision Case No.12 of 2016.

On perusal of the writ application, it however appears that the petitioner has not brought on record the order dated



04.12.2016 said to have been passed in Case No. M-627 of 2015. Showing that on 17.02.2016 the basis of a police report the S.D.M, Sonapur, Saran, had passed an order under Section 146(1) of the Code of Criminal Procedure. Learned counsel for the petitioner admits that this order passed under Section 146 (1) was not challenged.

Since the order dated 17.02.2016 has not been challenged by the petitioner, this Court being a writ Court is unable to appreciate the kind of submissions which have been made at the Bar based on certain orders which are also not complete to give a clear picture about the dispute between the parties, this Court would restrain itself from delving upon the issues which are of pure facts and have been sought to be adjudicated without bringing complete materials on the record.

At this stage, this Court would not be in a position to issue a direction as sought for, however, the petitioner is given liberty to pursue his remedy as may be advised in accordance with law if he is claiming forceful dispossession or illegal dispossession by the private respondents or the receiver as the case may be.

The writ application stands disposed off with the aforesaid observations and directions.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha

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