

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6195 of 2016

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1. Sarita Devi, Wife of Sanjay Singh, Resident of Village- Sipara (Near Gandhi Murti), P.S.- Beur, District- Patna.
 2. Sanjay Singh, Son of Late Ram Sharan Singh, Resident of Village- Sipara, P.O.- Dhelwa, P.S.- Beur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Patna.
2. The I.G., Bihar, Patna.
3. The D.G.P., Bihar, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Dy. S.P., Phulwarisharif, Patna.
6. The I.O., Beur, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha
For the Respondent/s : Mrs. Sangh Mitra Ghosh, AC to GP-15.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 02-11-2018

Heard Mr. Satya Ranjan Sinha, learned counsel for the petitioners and Mrs. Sangh Mitra Ghosh, learned AC to GP-15 for the respondent-State.

The present writ application has been filed for a direction to the respondent-authorities to give protection to the petitioners to construct the shop on the land, appertaining to Revenue Thana No. 27, Tauzi No. 5205, Khata No. 41, Survey Plot No. 270, situated at Mauza Sipara, P.S. Phulwari Sharif, District Patna which is being obstructed by some anti-social elements. Further prayer has been made for a direction to the



respondent authorities to investigate the Beur P.S. Case No. 70 of 2016.

It is submitted by learned counsel for the petitioners that the petitioners are the owner of the land in question over which they were constructing the shop, but it was obstructed by some anti-social elements and demand of extortion was also made by them. The petitioners also lodged Beur P.S. Case No. 70 of 2016, against the anti-social elements with accusation under Sections 147, 341, 323, 307, 384 and 385 of the IPC, hence the petitioners seek police protection for construction without any hurdle over the land in question.

A counter affidavit has been filed on behalf of the respondents which suggests that in the Beur P.S. Case No. 70 of 2016, lodged by the petitioner, the investigation has already been concluded and it further stipulates that the accusation of demand of extortion has been found false and subsequently, Charge-Sheet was submitted on 31.07.2016 finding the case to be true under Section 147, 149, 341 and 323 of IPC.

Learned AC to GP-15 submits that the counter affidavit further stipulates that there is a serious land dispute between the petitioners and his agnate, Anil Singh, the accused Beur P.S. Case No. 70 of 2016. It is further stated by the learned counsel for the



respondent-State that Anil Singh has also lodged Beur P.S. Case No. 71 of 2016 with accusation under Sections 147, 341, 323, 379 and 385 of the IPC against the petitioners. So far as protection of life and property of the petitioners is concerned, the respondents are duty bound to give them such protection, but in the background of serious land dispute and pending title suit, it is difficult for the respondents to ascertain the bonafide of the petitioner's claim of seeking police protection..

Considering the fact that the petitioner has sought for protection in the background of a serious land dispute and pending title suit as well as the fact that the petitioner has also lodged a criminal case, this Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot enter into the factual aspects to adjudicate the dispute concerning ownership and title, which can only be decided by a Court of competent jurisdiction. Since the investigation of Beur P.S. Case No. 70 of 2016 has already concluded, hence virtually the writ application has become infructuous.

So far as prayer for protection to the life and property of the petitioners is concerned, the petitioners are permitted to submit a fresh representation before the District Magistrate and Sr. S.P., Patna within a period of four weeks from the date of



receipt/production of a copy of this order, who will look into the matter and dispose of the same within a specified time frame in accordance with the provisions of law.

Accordingly, with the above observations and directions, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.11.2018
Transmission Date	

