

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5288 of 2014

- =====
1. Bigan Mistry Son of Chamari Mistry Resident Of Village- Kadwa, Police Station- Sherghati in the District Of Gaya
 2. Budhiraj Gupta Son of Late Chhatanki Sao Resident of Gola Bazar, Sherghati, Police Station- Sherghati in the District Of Gaya
 3. Gulab Chand Mistry Son Of Late Banshi Mistry Resident of Village- Mahuawan, Police Station- Amas in the District Of Gaya

... .. Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department Of Home, Government of Bihar, Patna
2. The District Magistrate-Cum-Collector, Gaya
3. The Superintendent of Police, Gaya
4. The Sub-Divisional Magistrate, Sherghati In The District of Gaya
5. The Sub-Divisional Police Officer, Sherghati In The District of Gaya
6. The Officer-In-Charge, Sherghati In The District of Gaya
7. Raj Kumar Verma Son of Late Moti Lal Singh
8. Sanjay Verma Son of Late Moti Lal Verma
9. Lohari Kumhar Son of Late Gardu Kumhar
10. Bishun Kumhar Son of Lohari Kumhar

All Are Resident Of Gola Bazar, Sherghati, Police Station- Sherghati in the District of Gaya

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 20064 of 2016

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Pandit Upendra Nath Son of Ram Prasad Prajapati Resident of Gola Bazar, Sherghati, P.S.- Sherghati, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The District Magistrate- Cum-Collector, Gaya.
3. The Superintendent of Police, Gaya.
4. The Sub-Divisional Magistrate, Sherghati in the District of Gaya.
5. The Sub-Divisional Police Officer, Sherghati in the District of Gaya.
6. The Officer-in-Charge, Sherghati in the District- Gaya.
7. Ray Kumar Verma, Son of Late Moti Lal Verma.
8. Sanjay Verma Son of Late Moti Lal Verma.
9. Lohari Kumar, Son of Late Gardu Kumhar,
10. Bishun Kumar, Son of Lohari Kumhar.

All are resident of Gola Bazar, Sherghati, Police Station- Sherghati in the district of Gaya.



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 5288 of 2014)

For the Petitioner/s	:	Mr. Dhanajay Kumar, Mr. Satish Kumar Sinha, Mr. Devi Das Srivastava and Mr. Sunil Prasad, Advocates
For the Respondents no. 7 and 8	:	Mr. Sanjay Kumar and Mr. Ashutosh Singh, Advocates
For the State	:	Mr. Jainendra Kumar, AC to SC-17

(In Civil Writ Jurisdiction Case No. 20064 of 2016)

For the Petitioner/s	:	Mr. Dhanajay Kumar, Mr. Satish Kumar Sinha, Mr. Devi Das Srivastava and Mr. Sunil Prasad, Advocates
For the Respondents no. 7 and 8	:	Mr. Sanjay Kumar and Mr. Ashutosh Singh, Advocates

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 28-11-2018

Heard learned counsel for the petitioners; State and respondents no. 7 and 8.

2. The petitioners in C.W.J.C. No. 5288 of 2014 claim to be the tenants of three shops situated on Plot No. 1229, Khata No. 1138 in the town of Sherghati in the District of Gaya, whereas the petitioner of C.W.J.C. No. 20064 of 2016, claims to be the land owner of the said shops. The respondents no. 7 and 8 claim to be the purchaser of the shops from an agnate of the petitioner of C.W.J.C. No. 20064 of 2016.



3. The writ petitions were filed assailing the action taken by the State authorities in connivance with the respondents no. 7 and 8, of putting lock in their shop and forcibly blocking the main entrance by unloading sand and stone chips in front of the shop. The matter has been heard at length on various occasions and the Court had earlier directed the District authorities to unseal the shop and get videography done and proper inventory and then reseal the same and submit a report. Pursuant to the same, a report has been submitted by the District Magistrate, Gaya in which the report of the Sub-Divisional Magistrate, Sherghati has been appended along with other reports. CD of the videography has also been attached to the report.

4. The parties have tried to draw the attention of the Court to various documents and circumstances to indicate that they are the lawful owner/tenants of the land/ shops in question. However, the Court has consciously not applied itself to the title of the respective parties. The matter for consideration is simple. The moot issue is whether the District administration or any private person can forcibly seal and put



lock in the premises which is occupied by another person, without the due process of law.

5. In the present case, there were multiple locks found on the shops in question. The same were opened by keys provided by the parties. However, right from the beginning, the contention of the tenant petitioners is that they were running the shops in the premises which could be verified from the articles which were inside. In that view of the matter, the Court had directed for such verification.

6. The respondents no. 7 and 8, on the other hand, had not contended that they were running the shops or they had their materials inside the shops, which tally with the claim of the tenant petitioners before the Court. Thus, it is apparent that when there are multiple keys, it means that besides the persons who were actually in possession, others have also put their lock and key. However, the most important question would be as to who was in possession and for which the only indicator would be what is recovered from inside the premises. As has been indicated above, the report clearly suggests that it was the tenant petitioners, who were in possession of shops when some other persons have also put



their lock and key. Though, the contention of the petitioners is that it is the police who had forcibly put the second lock but in the counter affidavit filed, it has specifically been denied that the local police had taken such action.

7. Be that as it may, the Court has considered the matter from a limited point of view as to whether the person who is in possession of any premises can be ousted or the premises locked without due permission and order of the competent Court / authority, in accordance with law.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the contention of the petitioners in the present writ petitions that the shops which they were occupying has been forcibly locked, is borne by the report submitted by the District administration to the Court and which has also been brought on record in the various affidavits filed in the present case. Thus, without going into the question of title or otherwise, the Court has no hesitation to hold that once the tenant petitioners were in possession of the shops in question, they could not have been dispossessed or their shops locked without the order of the Civil Court of



competent jurisdiction against them and that too only through the process of the Court and not forcibly either by the local police or by any private person.

9. For the reasons aforesaid, the writ petitions stand disposed off with a direction to the District Magistrate as well as Senior Superintendent of Police, Gaya to ensure that the possession of the shops in question is handed over to the petitioners of C.W.J.C. No. 5288 of 2014, after taking due receipt of the materials inside the shop.

10. The Court would only observe that they are entitled to be in peaceful possession of the shops in question till the time there is no adverse order against them or they are evicted pursuant to any order passed by the Civil Court of competent jurisdiction and execution thereof through the process known to law.

(Ahsanuddin Amanullah, J)

P. Kumar

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