

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16502 of 2018

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1. Ram Pravesh Yadav Son of Late Babu Lal Yadav
 2. Sachin Yadav Son of Sri Sidheshwar Yadav Both are residents of
Mohalla : Baljori Bigha, Katari, Police Station : - Chandauti,
District : - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Magistrate, Sadar, Gaya.
4. The Deputy Superintendent of Police, Law & Order, Gaya.
5. The Circle Officer, Town (Gaya), District - Gaya.
6. The Officer In-Charge, Chandauti Thana, Gaya.
7. Smt. Munni Devi Wife of Ranjeet Mandal resident of Mohalla Katari, Police
Station - Chandauti, District : Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. T.N. Maitin, G. Advocate
: Mr. Rajeev Kumar Sinha
For the Respondent/ : Mr. Md. N.H. Khan
: Mr. Md. Harun Quareshi

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 05-12-2018

1. The present writ petition has been filed for quashing the order dated 13.07.2018, whereby and whereunder the Sub-Divisional Magistrate, Sadar, Gaya has sealed the shop of the petitioner upon a petition filed by the land lady on the ground that the land lady has made a complaint to the District Administration that though she wants the tenant to vacate the shop but the tenant is not vacating the shop and instead, has threatened the land lady.



2. The learned Senior counsel for the petitioner has submitted that the eviction of the petitioner or sealing of the shop of the petitioner could have taken place only after following the due process of law and the District Administration is not empowered to seal the shop of the petitioner and act in garb of eviction proceedings. The learned Senior counsel has further relied upon a judgment reported in **2006(1) PLJR 432**, wherein in similar circumstances, the BISCOMAN, had approached the Collector, Patna District with a request to remove the petitioner forcibly from the premise, who was the tenant in the said premise and the Collector, Patna had then evicted the petitioner of the said case, however this Court by the aforesaid judgment had directed for handing over the possession of the tenanted property to the petitioner of that case, finding the action of the Administration to be unlawful and contrary to the due process of law.

3. The learned counsel for the respondents has submitted that the petitioner was creating nuisance, hence action under Section 133 of the Criminal Procedure Code was taken, however the learned counsel for the respondents has not been able to show any provision of law, whereby the District Administration can adjudicate upon a landlord and tenant



dispute and evict the tenant from the premises in question.

4. Having regard to the facts and circumstances of the case, this Court is of the opinion that the respondents/ District Administration could not have sealed the shop of the petitioner, at the instance of the landlady and in case, she wanted to evict the petitioner, she was free to approach the Court of competent civil jurisdiction for the purposes of eviction of the petitioner herein.

5. For the reasons mentioned hereinabove, the writ petition is allowed, the order dated 13.07.2018, being contrary to the well settled law, is quashed and the District Administration is directed to open the seal of the shop and hand over the possession thereof to the petitioner herein within three days from today.

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(Mohit Kumar Shah, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	.12.2018
Transmission Date	NA

