

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2809 of 2017

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1. Subhash Yadav, son of Raghu Nandan Prasad Yadav @ Raghu Nandan Yadav, resident of Village- Karari Tola, Taufir, P.S. Muffasil, District-Munger.

.... Petitioner/s

Versus

1. The State of Bihar Through The Collector, Munger.
2. The Sub Divisional Magistrate, Sadar, Munger.
3. The Officer in Charge Muffasil, Police Station, Munger.
4. Braj Kishore Singh, son of not known, Jamadar, Muffasil Police Station, Munger.
5. Ramanand Singh, son of Late Kusho Singh, resident of Village-Dariyapur, P.S. Muffasil, District- Munger.
6. Rameshwar Yadav, son of Keshav Yadav.
7. Giro Sah @ Grindra Prasad Sah, son of Late Maya Ram Saha. No. 6 and 7 are resident of Village- Karor Tola Taufir, P.S. Muffasil, District-Munger.
8. Krishnadeo Paswan, son of Late Adhnu Paswan, Chowkidar, resident of Village- Taufir Diyara, Jai Mangal Paswan Tola, P.S. Muffasil, District-Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Jha

For the Respondent/s : Mr. Md. Nadeem Seraj (GP5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 30-01-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Learned counsel for the petitioner submits that a title suit in respect of the entire 11 bighas of land is pending in the court of learned Additional Munsif-VIII, Munger in which vide order dated 16.09.1999 ad interim injunction has been granted against the respondent nos.5 and 6. Learned counsel further



submits that 144 proceeding was initiated on the basis of a police report and the crops which were there in the land were cut and the entire packets of the maize crops were handed over to one Krishna Deo Paswan, Chowkidar on the condition that he would make available the same as and when required.

Learned counsel submits that prior to his filing of the application for release of the maize crops earlier vide order dated 27.06.2016, the S.D.M. Sadar Munger passed an order holding that because the matter is sub-judice in the court of learned Additional Munsif-VIII, Munger, therefore, it would not be just and proper to pass any order in this matter. It is further submitted that when the petitioner filed Cr.Rev.No.64 of 2016 in the court of learned Additional Sessions Judge-1st, Munger seeking release of the maize crops, vide order dated 15.09.2016, he has also taken a view that both the parties should appear and argue their case before the court of learned Munsif-VIII. Learned counsel submits that direction to move before the court of learned Additional Munsif-VIII is not correct and hence, the impugned order is liable to be set aside.

On the other hand, learned counsel representing the State submits that there is no illegality or infirmity in the impugned orders.



Sheet-anchor of the argument of learned counsel for the petitioner is that because of injunction order against the private respondents the crops should belong to the petitioner and therefore it should be released in favour of the petitioner.

If this is the argument of learned counsel for the petitioner then it is difficult to understand why he is not willing to contest the matter before the learned Additional Munsif-VIII whose order he is citing everywhere for appreciation and thereupon an order of release in his favour.

I have considered the rival submissions at the bar. The fact remains that a title suit is pending before the learned Additional Munsif-VIII at Munger where the parties are fighting over their right or possession as the case may be. The petitioner relied upon the order of injunction dated 16.09.1999 said to have been passed in the said title suit and by virtue of that petitioner claims that maize crops lying in the land in question be handed over to him. In my opinion the petitioner should submit to the jurisdiction of the learned Munsif-VIII at Munger where the title suit is pending. The said court would be in a better position to understand and appreciate its own order of injunction said to have been passed on 16.09.1999 and effect thereof in the facts of the case. If such an application is filed by the petitioner, the learned



Munsif Court at Munger shall consider the same in accordance with law and shall pass a reasoned order thereon within a period of three months from the date of filing of the application after hearing both the parties.

The writ application is disposed of with the observations and directions made above.

(Rajeev Ranjan Prasad, J)

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