

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5267 of 2016

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Hari Kishore Singh, Son of Late Ramadhar Singh, Resident of Village Poltu Hata, P.S.- Jamo Bazar, District - Siwan.

... .. Petitioner

Versus

1. The State of Bihar through District Magistrate Siwan.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. The Officer in Charge of Jamo Bazar Police Station, P.O. and Police Station Jamo Bazar, District - Siwan.
5. Vikrama Manjhi, Son of Late Supar Manjhi,
6. Birendra Manjhi, Son of Vikrama Manjhi,
7. Ram Avtar Manjhi, Son of Late Somari Manjhi.
8. Rajesh Manjhi, Son of Ram Avtar Manjhi
9. Lala Manjhi, Son of Late Somari Manjho, All Resident of Lala Hata, P.S.- Jamo Bazar, District - Siwan.
10. Rajiv Kumar, Son of Raghaw Singh, Resident of Paltu Hata, P.S.- Jamo Bazar District - Siwan.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh
For the Respondent/s : Mr. Md. Nashrul Hoda Khan- SC 1

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 31-10-2018

Heard Mr. Bipin Bihar Singh, learned counsel for the petitioner and Md. Nashrul Hoda Khan, learned SC 1 for the respondent-State.

The present writ application has been filed for a direction to Respondent No.2, the District Magistrate, Siwan for providing protection to the life and property of the petitioner, particularly with regard to land appertaining to Khata No. 14, Survey No. 151, situated at Mauza Lala Hata, P.S. Jamo Bazar, District of Siwan.



It is submitted by learned counsel for the petitioner that the land in question is the ancestral khatiyani land of the petitioner and the petitioner has paid up-to-date rent, but private Respondent Nos. 5 to 10 are creating disturbance to the petitioner for which, representation was submitted before Respondent No.2, the District Magistrate, Siwan on 26.10.2015, as contained in Annexure-1, but no action has been taken till date.

Learned counsel for the petitioner has relied upon the order dated 11.01.2013, passed in C.W.J.C. No. 530 of 2013 (Chandra Kishore Kumar and Others Vs. State of Bihar and Others) wherein it has been held that if a person holds valid title to a property and is in lawful possession, it not only constitutes a constitutional right under Article 300A of the Constitution, but also a fundamental right under Article 21 of the Constitution. No third person can interfere with the title, possession and enjoyment of the lawful holders of the lands. Any illegal interference and obstruction by third person in any manner contrary to the law requires to be protected by the State.

A counter affidavit has been filed on behalf of Respondent No.3, the Superintendent of Police, Siwan to the effect that over the land in question for which the petitioner is claiming to be the Khatiyani raiyat, private Respondent Nos. 5 to 10 and



one Rajeev Kumar have also claimed the land in question on the basis of Khatiyani raiyat, however, they failed to produce any document and hence a proceeding under Section 144 Cr. P.C. was initiated.

Learned counsel for the petitioner submits that till date protection has not been provided to the petitioner. However, Learned counsel for the petitioner submits that at present, he is not having any instruction with regard to initiation of a proceeding under Section 144 Cr. P.C. The counter affidavit also does not stipulate the number of the case proceeding initiated under Section 144 Cr. P.C.

Learned SC 1 submits that with regard to providing protection and not allowing the private respondents and any other third party to interfere with the possession of the petitioner, if he has a lawful title, necessary order, if already has not been passed, will be passed within a reasonable time frame.

Considering the fair stand of the parties, this Court permits the petitioner to submit a representation before Respondent No.2, the District Magistrate, Siwan and Respondent No.3, the Superintendent of Police, Siwan within a period of three weeks from the date of receipt/production of a copy of this order whereupon it is expected from the respondent authorities to



dispose of the same within a period of four weeks from its submission keeping in view the fact that if the petitioner has a valid title over the land in question, no third party should obstruct him to enjoy the property in question and the State has the duty to protect the same.

Accordingly, with the above observation/direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.11.2018
Transmission Date	

