

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3032 of 2017

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Shankar Prasad Burnwal @ Shankar Prasad Modi, Son of Late Bhubneshwar Prasad Burnwal, Resident of Village- Batia Behkhatri, P.S.- Charka Pathar, District- Jamui, at present 'Savitri Bhawan', Road No. 1, Ward No- 6, Narayani Nagar, Sachi Patti, Hajipur, Vaishali.

.... Plaintiff/Petitioner/s

Versus

1. Satya Narayan Yadav, Son of Late Kewal Yadav, Resident of Village- Dahiyand, P.O.- Batia, District- Jamui.
 2. Pokhan Yadav, Son of Kokil Yadav Resident of Village- Batia, Anchal- Sono, District- Jamui.
 3. Ayodhya Yadav, Son of Late Sobhi Yadav.
 4. Bishundeo Yadav, Son of Nero Yadav
 5. Kartik Yadav, Son of Bihari Yadav
- All 3 to 5 are Resident of Village- Dahiari, P.O.- Bala, District- Jamui.
6. Dinesh Yadav, Son of Madan Yadav, Resident of Village- Barabak, P.O.- Batia, District- Jamui.
 7. Baldeo Prasad, Son of Prabhu Prasad Gupta, Resident of Village+ P.O.- Batia, District- Jamui.

....Respondents 1st Set/Opposite Party 1st Set.

8. Bam Bholai Rai, Son of Kashi Rai, Resident of Village- Snoo, P.O. & District- Jamui.
9. Nageshwar Prasad Barnwal, Son of Masudan Prasad Barnwal, Resident of Village- Batia, P.S.- Chakai, P.O.- Batia, District- Jamui.

.... Plaintiff/Opposite Party 3rd set

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 05-09-2018

Heard learned counsel for the petitioner.

This application has been preferred seeking transfer of Title Suit No. 195 of 2015 presently pending in the Court of learned Sub-Judge-I, Jamui, to the Court of Sub-Judge, Hajipur. The suit has been brought by the present petitioner seeking a declaration of title and recovery of possession of the suit land.



It is the case of the petitioner that he had purchased 17 decimal of land bearing Plot No. 1362, Khata No. 148 in Mauza – Batia, P.S.-Sono, District- Jamui, in the year 1977 through a registered sale deed but in course of mutation only 13 decimal of land were mutated in the name of this petitioner. Annexure 2 is said to be the order passed by the D.C.L.R, Jamui, on 15.09.2014 wherein, it was held that the dispute in question may be decided only by a Court of competent jurisdiction. Because of this opinion expressed by the D.C.L.R., Jamui, the petitioner brought the Title Suit in question.

Learned counsel for the petitioner submits that the petitioner is presently residing at Hajipur, he has left his village and the native place because of the threats received from the defendants and in view of the threats to the life of the petitioner now he is unable to contest the case at Jamui, therefore, the case should be ordered to be transferred to the Court at Hajipur. Reliance has been placed at Annexure 3 which is an information petition filed in the Court of learned Chief Judicial Magistrate, Hajipur at Vaishali, wherein, certain complaints have been made by the petitioner against his co-sharers. This application as contained in Annexure 3 is dated 15.06.2015, whereas, the suit in question has been filed in the Court at Jamui on or about



20.11.2015.

Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **Kulwinder Kaur alias Kulwinder Gurcharan Singh versus Kandi Friends Education Trust and Others** reported in (2008) 3 SCC 659 to submit that this Court may in exercise of power under Section 24 of the Code of Civil Procedure transfer the case in question in the interest of justice. Paragraph 23 of the judgment of the Hon'ble Apex Court in the case of **Kulwinder Kaur alias Kulwinder Gurcharan Singh** (supra) have been read over.

After hearing learned counsel for the petitioner and on perusal of the records, this Court finds that the only ground on which the petitioner is seeking transfer of the suit is his apprehension and the so called threat to him. This Court is unable to accept the submission because such perception of threat to the life of the petitioner has not been expressed by him before any competent authority citing any occurrence at Jamui. Annexure 3 is a document which was written by the petitioner himself on 15.06.2015 which indicates that there were certain land disputes between the parties and co-sharers which was taken as a reason for the threat being extended. Despite there being such submission in Annexure 3, it is the petitioner who chose to file the Title Suit at



Jamui after about five months and pursued the same for about two years before moving this Court seeking transfer of the suit. Since, filing of the Title Suit no threat has been alleged or reported anywhere by the petitioner before any competent Court.

In the opinion of this Court, the plea which is now being taken based on Annexure 3 alone is not fit to be accepted. The facts reveal that even in the present application there is no statement that on any particular date while attending the Court proceeding any occurrence took place which can give rise to a reasonable belief in the mind of the petitioner that he has threat to his life. In absence of any such pleading, mere bald statements of the petitioner will not do.

This application is dismissed.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

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