

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.930 of 2018

Smt. Ram Pyari Devi, Wife of Balmiki Prasad Singh, Resident of Village-
Kanhaipur, Tola Ganga Prasad, P.S.- Mokamah, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar, through Director General of Police, Bihar, Patna.
2. The Collector- Cum- District Magistrate, Patna.
3. The Sub District Magistrate, Barh, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Superintendent of Police (East Zone), Patna.
6. The Officer-In- Charge of Police Station, Mokamah, Patna.
7. Urmila Devi wife of Brahmdeo Singh, null
8. Brahmdeo Singh
9. Jamindar Singh
10. Krishnandan Singh, All Sons of Late Bindeshwar Singh, All Residents of Village- Kanhaipur, Tola Ganga Prasad, P.S.- Mokamah, District - Patna.
11. Jogendra Rai
12. Mahjindar Rai
13. Rajendra Rai, All Sons of Late Kunj Bihar Rai, All Residents of Village- Kanhaipur, Tola Ganga Prasad, P.S.- Mokamah, District - Patna.
14. Mangal Yadav, Son of Late Borhan Yadav
15. Dipia Devi, Wife of Late Sobha Yadav
16. Mahendra Yadav, Son of Late Sobha Yadav
17. Ramashish Yadav, Son of Late Gopal Yadav
18. Siya Ram Yadav, Son of Late Gopal Yadav
19. Keshari Devi, Wife of Baleshwar Ravidas
20. Parwati Devi @ Paro, Wife of Siya Ram Mochi
21. Dina Mochi, Son of Late Siya Ram Mochi, All Residents of Village- Kanhaipur, P.S.- Mokamah, District- Patna.
22. Dayawati Devi, Wife of Bhatu Rabidas, Resident of Village- Barh Barhiwa Tola, P.S. Barh, District- Patna.
23. Ram Daya Devi, Wife of Raj Kumar Rabidas, Resident of Village- Malahi, P.S.- Barh, District- Patna.
24. Shyama Devi, Wife of Jugeshwar Rabidas, Resident of Village- Dayachak, P.S.- Barh, District- Patna.
25. Mano Devi, Wife of Dularchand Rabidas, Resident of Village- Kamarpar, P.S.- Athmalgola, District- Patna.
26. Sahdeo Ram, Son of Late Sudama Ram
27. Champa Devi, Wife of Manik Sao. Residents of Village- Kanhaipur, P.S.- Mokamah, District Patna.
28. Sakaldeo Rai
29. Ramdeo Rai
30. Sukhdeo Rai
31. Indradeo Rai, All Sons of Ram Sharan Rai, Residents of Village- Makra, P.O.- Makra, P.S.- Mokamah, District- Patna.
32. Upendra Paswan
33. Swarath Paswan
34. Shuba Paswan, All Sons of Adalat Paswan, Residents of Village- Kanhaipur, P.S.- Mokamah, District - Patna.



35. Mano Devi, Wife of Amir Paswan, Resident of Chuherchak, P.S.- Barhiya, District- Monghyer.
36. Sarwati Devi, Wife of Umesh Sao, Resident of Village- Kanhaipur, P.S.- Mokamah, District- Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Jitendra Kishor Verma, Adv.
Mr. Anjani Kumar, Adv.
Mr. Abhishek Anand, Adv.
For the Respondent/s : Mr. P.K.Verma -AAG 3
Mr. Sanjay Kumar 'Ghosarvey', AC to AAG 3.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 03-10-2018

Heard Mr. Jitendra Kishor Verma, learned counsel for the petitioner and Sanjay Kumar Ghosarvey, learned AC to AAG 3 for the Respondent-Sate.

Since the main relief prayed for by the petitioner in this writ application is direction to the District Administration to provide security to life and property of the petitioner and in view of the nature of order, this Court intends to pass, this Court is not inclined to issue notice to private Respondent Nos. 7 to 34.

The present writ application has been filed for a direction to Respondent Nos. 1 to 6 to protect the peaceful possession of the petitioner over the land, appertaining to Thana Nos. 35 and 36, Tauzi Nos. 79-84, Khata Nos. 128, 244, 224 and 281, measuring an area of 11 acres 17^{1/2} decimals, situated at Mauza Sadikpur Makra, Kanhpur, District Patna.



Learned counsel for the petitioner submits that the petitioner filed Title Suit No. 64 of 1990, before the Sub-Judge-II, Barh for declaration of title over the land in question and for declaration of the possession of the defendants over the said land as illegal and wrongful. He also claimed the mesne profit for the period of dispossession and for declaration of decree for recovery of possession of the land in question in favour of the petitioner through process of the Court. Further relief was prayed for cancellation of deed dated 10.01.1986 and deed of gift dated 22.07.1986 purported to be executed by Jago Kuer in favour of Respondent No.7, Urmila Devi. The said title suit was decreed vide judgment dated 13.06.1997, passed by Sub-Judge-II, Barh holding the title of the petitioner over the suit land in question and possession of private respondents illegal and wrongful. The petitioner was also declared entitled to mesne profit for the period of dispossession. In pursuance to the order dated 08.03.2001, passed in Execution Case No. 01 of 1997, as contained in Annexure-3, the delivery of the possession of the land in question to the petitioner was confirmed by learned Sub-Judge-II, Barh. On 13.08.2005, the petitioner filed Mutation Case No. 145 of 2005-06, whereupon the name of the petitioner was mutated, but the petitioner, who is an old lady, is not being allowed to enjoy the



fruits of the decree at the hands of the private respondents. The petitioner in this regard has also placed reliance upon the judgment passed in Uma Devi Vs. The State of Bihar and Others, reported in 2007(2) PLJR 474.

Learned AC to AAG 2 submits that with regard to one of the plots, bearing Plot No. 1363, Khata No. 128, there is a dispute with regard to fencing of the graveyard, leading to filing of C.W.J.C. No. 1412 of 2015. In response to the said contention of learned counsel for the respondent-State, Mr. J.K. Verma, learned counsel for the petitioner submits that he is not claiming any relief with regard to said Plot No. 1363. Moreover, the said land has already been sold vide sale deed dated 26.07.2007.

Learned counsel for the petitioner further submits that representation has already been submitted before Respondent NO.2, the District Magistrate, Patna and a copy of which, has been transmitted to Respondent No.3, the Sr. S.P., Patna and Sub-Divisional Officer, Patna, through registered post.

Learned AC to AAG 3 submits that the District Magistrate, Patna and Sr. S.P., Patna will look into the matter and take needful action.

It is well settled law that if a person has title over the property then he/she cannot be precluded from enjoying the title



and possession of the same by any person, till the title and possession is unsettled by any competent Court. No doubt right to protection of the life and property is no longer the fundamental right, but when the right to properties and right to life remains as rights of a citizen, then such rights are to be protected under Article 21 of the Constitution of India. In this regard useful reference may be made to Uma Devi case (supra). Paragraph no.5 of the judgment reads as follows:-

“This Court has considered the respective submissions of the counsel for the petitioner and the intervenor. In a civilized society governed by the rule of law every citizen has a right to enjoy his or her property unfettered by interference, except in accordance with law. Any interference with this right of enjoyment without the sanction of the law cannot be countenanced by a court of law. Should such enjoyment of properties sanctioned by law be interfered with, it shall be the solemn duty of the State to ensure that a citizen is permitted to live freely and fearlessly and enjoy the property. Every man’s home is his castle. In the present case, this Court finds that the petitioner is a purchaser of the lands, which are described in the sale deed. Part of the vended lands which subsequently came to the possession of the petitioner in pursuance of an eviction decree of a court of law are also described in the execution decree. The petitioner cannot be obstructed and prevented from making construction upon her lands described in the sale deed read in conjunction with the execution decree under a plan sanctioned by the competent authority much less by a third person.”



In the circumstances, this Court feels that the petitioner should submit a fresh representation before the District Magistrate, and Sr. S.P., Patna within a period of three weeks from the date of receipt/production of a copy of this order, whereupon the District Magistrate and Sr. S.P., Patna, look into the matter and will take needful action to provide the security with regard to life and property of the petitioner, who is an old lady and will dispose of the representation of the petitioner within a period of four weeks from its submission in accordance with law.

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

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.10.2018
Transmission Date	

