

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.326 of 2019

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Lakshman Prasad @ Lakshuman Rai son of Late Hazari Lal, Resident of
Mohalla- Saristabad, Police Station- Gardanibag, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Deputy Superintendent of Police, Patna.
6. The Station Head Officer, Gardanibag Police Station, District- Patna. null null

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeeb Kumar Sanju
For the Respondent/s	:	Mr.Partha Sarthi- GA-4

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 08-02-2019 This writ application has been filed for the following
relief:-

“(i) For issuance of a writ in the nature of **MANDAMUS** or any other appropriate writ for implementation of the orders of injunction through the police passed by learned Sub-Judge-VI, Patna on 17.09.2010 and 19.02.2011 in Title Suit No. 12 of 1950 (Mosmat Yasoda Devi and others Versus Mosmat Sarswati Devi and others).

(ii) For issuance of a writ in the nature of **MANDAMUS** for implementation of order of injunction



passed by learned Sub-Judge-VI and VIII, Patna directing the plaintiff and others to maintain status-quo over the suit property till the preparation of final decree and restoring the land in its original position of vacant land by removing the fencing and construction and tempo and vehicle-stand being used over the suit land specifically plot no. 762.

(III) For issuance of a writ in the nature of direction it the learned Sub-Judge VI, Patna to implement his order through the Senior Superintendent of Police, Patna (Respondent no.4) and the same being affirmed and taken into judicial notice by the High Court in the order dated 05.08.2011 passed in C.W.J.C. No. 6111 of 2011.”

2. Briefly narrated, it is the case of the petitioner that by an order dated 17.09.2010 passed under Order 39, Rule 1 of the Code of Civil Procedure, 1908, the Court below had directed the parties to maintain status-quo in respect of the suit property. It is his further case that since despite orders of injunction passed, the performa defendant Nos. 6 and 7 of the suit



continued with the selling of the land without allotment of the share, he moved before learned Sub-Judge-VI, Patna making a prayer to give direction to the police to prevent the parties from changing the physical feature of the suit land as per direction of the injunction order. In the order dated 19.02.2011, the learned Sub-Judge is said to have asked the petitioner to approach the police.

3. After having considered the averments made in the writ application, in my view, this application is completely misconceived. If the petitioner has a grievance of violation of any order passed by a Civil Court of competent jurisdiction in a title suit, he has remedy under the Code itself by making an application in accordance with Order 39 Rule 2A of the Code of Civil Procedure proceeding against the persons acting in breach of the order of injunction.

4. In any view of the matter, this application seeking relief in the nature as noted above, cannot be entertained in a proceeding under Article 226 of the Constitution of India.

6. This application is dismissed.

(Chakradhari Sharan Singh, J)

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