

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6406 of 2019

Md. Kalim Son of Late Mumtaz Ahmad, resident of Mohalla- Telhatta Bazar
Suta Patti, P.S.- Siwan (Town), District- Siwan.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary Home Department Govt. of Bihar, Patna.
2. The District Magistrate (D.M), District- Siwan.
3. The Sub-Divisional Officer, Siwan.
4. The Circle Officer, Siwan Sadar, District- Siwan.
5. The S.H.O., Siwan (Town), Police Station, Siwan.
6. Md. Muslim Son of Haji Nabi Mohammad, resident of Mohalla- Chowk Bazar, P.S.- Siwan (Town), District- Siwan.
7. Bibi Nayab Parvim alias Lado Begum alias Nayab Parveen, Wife of Md. Muslim, resident of Mohalla- Chowk Bazar, P.S.- Siwan (Town), District- Siwan.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Rajendra Narayan, Senior Advocate
		Mr. Amir Alam, Advocate
For the Respondent State:		Mr. Dhurendra Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 05-04-2019 The petitioner is aggrieved by an order dated 13.02.2019 passed by the Sub Divisional Officer, Siwan Sadar, whereby he has directed the officials to provide protection to respondents No. 6 and 7, who are making construction over the land situate under Mauza Siwan, Thana No. 231, Tauzi No.1474, Khata No. 36, Holding No. 16 (Old 347). It is the case of the petitioner that the said order has been passed by the Sub Divisional Officer on the basis of incorrect representation made by private respondents No. 6 and 7.



I have perused the impugned order and examined the pleadings on record.

It is manifest from the impugned order is that it has been issued in the light of the directions/observations made by this Court in the order dated 05.11.2018 passed in Cr.W.J.C. No. 768 of 2018, which was filed by respondents No. 6 and 7. In the said writ application, the respondents No. 6 and 7 had sought a direction to grant security to them on payment of adequate cost as it was their case that despite there being a judicial order dated 16.10.2017 passed in First Appeal No. 58 of 2012, whereby the petitioner, who is appellant in First Appeal No. 58 of 2012, was interfering with the peaceful possession of the said respondents. This Court had issued notice to the contesting private parties to the said Cr.W.J.C. No. 768 of 2018 including this petitioner. Neither the petitioner nor other private respondents, despite service of notice, filed their counter affidavits. Only when the final order was dictated in the Court room, it appears that the petitioner and other respondents filed vakalatnama. In the aforementioned background this Court passed following order on 05.11.2018 in Cr. W.J.C. No. 768 of 2018 :

“In the given facts and circumstances, in the opinion of this Court, the prayer made by the petitioners is of reasonable one and is required to be considered and entertained. This Court would, therefore, direct the



Superintendent of Police, Siwan to look into the application of the petitioners which will be filed within a week from today and on receipt of the said application and after giving due consideration of the same, the Superintendent of Police, Siwan shall ensure that if in the order of the Court petitioners are going on the land in question, they should not face any security threat and in case it is found that despite there being order dated 16.10.2017, there are acts of interference by the private-respondents, the Superintendent of Police, Siwan shall take adequate measures to provide safety and security to the petitioners while going on the land.”

It is evident from the said order that this Court found merit in the case of the private respondents.

What is not in dispute that title and possession has been held in favour of the private respondents by the trial Court in a suit against which First Appeal is pending. In the said First Appeal also, there is a direction to the petitioner/appellant in First Appeal No. 58 of 2012 that he should not interfere with the peaceful possession of respondents No. 6 and 7.

In the aforesaid background, the order passed by the Sub Divisional Officer, in my opinion, is justified.

This writ application has no merit and is accordingly dismissed.

It goes without saying that the order passed by the Sub Divisional Officer shall be subject to any order, which may



be passed by this Court in the First Appeal or any competent Court.

(Chakradhari Sharan Singh, J)

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