

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.296 of 2015

Arising Out of PS. Case No.- Year- Thana- District- Muzaffarpur

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Ashish Kumar S/o Sri Ramesh Kumar R/o village - Susta, P.S. Sadar, District
- Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Bihar,
Patna
2. The District Magistrate, Muzaffarpur
3. The Senior Superintendent of Police, Muzaffarpur
4. The Sub Divisional officer, East Muzaffarpur
5. Thana Incharge, P.S. Sadar, District - Muzaffarpur
6. Manorma Devi W/o Late Upendra Nath Srivastava
7. Gyanendra Nath Srivastava @ Munna S/o Late Upendra Nath Srivastava
8. Manendra Nath Srivastava S/o Late Upendra Nath Srivastava

Respondent Numbers 6 to 8 are R/o village - Susta, P.S. Sadar, District -
Muzaffarpur

9. Sri Ramesh Kumar
10. Sri Anil Kumar
11. Sri Alok Kumar
12. Sri Narendra Kumar
13. Sri Chandra Bhushan Prasad
14. Sri Dilip Kumar
15. Sri Praveen Kumar

Respondent No. 9 to 15 are Sons of Late Nawal Kishore Prasad

16. Smt. Chanda Devi W/o Sri Sudhir Kumar
17. Smt. Ragnin Devi W/o Sri Anil Kumar

Both Respondent no. 16 & 17 are Daughter of Late Nawal Kishore Prasad

18. Sri Anoop Kumar S/o Sri Ramesh Kumar

All are Residents of village & P.O. Susta, P.S. Sadar, Munsifi and Sub -
Division - East, District - Muzaffarpur

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Vishundeo Narayan, Sr. Advocate Mr. Manoj Kumar Manoj, Advocate
For the State	:	Mr. Ramadhar Singh, GP-25
For the Respondent 6 & 7	:	Mr. Bhavesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 02-01-2019

By way of the present writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for issuance of a direction to the respondent authorities to provide police protection for cultivating his land detailed in para-4 of the application and further restraining private respondent nos. 6 to 8 from any interference in peaceful cultivating possession of the land.

2. Mr. Vishundeo Narayan, learned senior advocate appearing for the petitioner submitted that the petitioner and his family members including proforma respondent nos. 9 to 18 are having right, title, interest and possession over the land detailed in para-4 of the writ petition. Current rent receipts and other documents would show that they are coming in possession over the property continuously since long. Partition Suit No. 29 of 1996 was also decreed by judgment and decree dated 27.02.2000 against which Appeal No. 14 of 2000 had been filed by petitioner including other family members impleaded as respondent nos. 9 to 18. During



pendency of appeal, the petitioner and other family members, who were parties to the suit and appeal, had filed a petition under Section 4 C of the Consolidation Act for abatement of the appeal including the original suit itself, which was rejected vide order dated 24.12.2008 against which the petitioner and other family members filed Civil Revision before this Court in which order dated 24.03.2009 had been passed with direction to the petitioner to file fresh application whereafter the petitioner filed a fresh application before the Appellate Court vide Appeal No. 14 of 2000 and the original suit itself has been abated under Section 4 C of the Consolidation Act and no suit is pending in the eyes of law before Civil Court, Muzaffarpur. He contended that the private respondent nos. 6 to 8 with the help of anti-social elements are creating hindrance in the peaceful possession and cultivation of the land in question.

3. On the other hand, learned counsel appearing for the State submitted that the writ petition itself is not maintainable in law as the petitioner is raising a private dispute relating to property which is beyond the scope of Article 226 of the Constitution of India. He contended that there is no pleading that any statutory authority, who was supposed to perform statutory duty had failed in discharge of his duty and, thus, no



mandamus can be issued against any official respondent.

4. Learned counsel for the respondent nos. 6 and 7 submitted that respondent nos. 6 and 7 are agnates of the petitioner. They have share in the property in question. He contended that the respondents have never taken law in their hand and they are claiming their right, title and possession over the land as the land belong to their common ancestors.

5. Having heard learned counsel for the parties, I am of the considered opinion that the writ petition is totally misconceived. The issue of right, title and possession over the property in question cannot be adjudicated by this Court in extra-ordinary writ jurisdiction. The petitioner has an equally efficacious alternative remedy for the redressal of his grievance.

6. In that view of the matter, I am not inclined to entertain the writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.01.2019
Transmission Date	04.01.2019

