

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1477 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Sheikhpura

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1. SUDAY KUMAR Son of Late Gariban Singh, Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
 2. Manoj Kumar Singh Son of Late Ramchandra Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.

... .. Petitioners

Versus

1. The State of Bihar
2. The District Magistrate, Sheikhpura.
3. The Superintendent of Police, Sheikhpura.
4. The Deputy Superintendent of Police Sheikhpura.
5. The Sub - Divisional Officer Sheikhpura, District Sheikhpura
6. The Circle Officer Shekhopursarai, District Sheikhpura
7. The S.H.O. Sheikhopur Sarai District Sheikhpura. Bihar

..... Respondents 1st Set.

8. Balmiki Singh Son of Late Chamari Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
9. Ajay Kumar Son of Balmiki Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
10. Nawlesh Kumar Son of Balmiki Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
11. Makeswar Kumar Son of Balmiki Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
12. Binod Kumar Son of Late Birendra Singh @ Tona Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
13. Rajeev Kumar Son of Late Birendra Singh @ Tona Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.
14. Suraj Kumar Son of Bidya Singh Resident of Village - Nimi, P.S.- Shekhopursarai, Distt - Sheikhpura.

... .. Respondents 2nd Set.

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Appearance :

For the Petitioners :	Mr. Pankaj Kumar, Advocate
For the Respondents :	Mr. M. Nasrul Huda Khan, SC-1



CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 13-11-2019

Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The present petition has been filed for the following reliefs as formulated by the petitioners -

“(I) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the respondent authorities to insure compliance of order dated 12.10.1993 passed in Case No. 1 (M)/1985 and to take appropriate action over the representation filed by the petitioners on 04.04.2019, 18.04.2019, 22.04.2019 through registered post for providing administrative security because petitioners are coming in peaceful possession over the land mentioned in Schedule-1 property of representation and over which 145 proceeding has already been decided in favour of petitioner vide judgment dated 12.10.1993 passed in Case No. 1(M)/1985 under Section 145 Cr. P.C. and that Judgment has become final because the same has never been challenged.

And also because petitioners has a legitimate right to save his property under Article 300 (A) of Constitution of India.

(II) Further for direction to the respondent 1st Set to prohibit the respondent 2nd Set for creating any hindrance over Schedule-1 property as mentioned in representation because the judgment passed by the competent authority in Case No. 1(M)/1985 dated 12.10.1993 became final judgment and petitioners have right to property as contemplated under Article 300 (A) of the Constitution.

(III) Further to save a legitimate right of petitioners with respect to property as contemplated under Article 300 A of Constitution of India and for that State is obliged to protect the



citizen like petitioners where they are coming in peaceful possession since 1993 over disputed land.

(IV) Further for issuance of any other writ/writs/order/orders, direction/directions for which petitioners shall be found entitled under the facts and circumstances for equitable justice”.

3. Learned counsel for the petitioners submits that a proceeding under Section 145 Cr. P.C. in Case No. 1(M)/1985 was decided by the Sub-Divisional Officer, Sheikhpura by order dated 12.10.1993 (Annexure-2), *inter alia*, holding the petitioners to be entitled to possession of the disputed property. It is stated that despite such order having attained finality, the petitioners' possession is now sought to be disturbed by the respondents 2nd Set and for which a representation has been filed before the S.H.O., Sheikhopursarai through registered post on 22.04.2019 (Annexure-4) with copies to various authorities. It is submitted however that no action has been taken on the said representation. It is submitted that the petitioners are entitled for protection of the property in the light of the aforesaid order dated 12.10.1993 passed in their favour.

4. Learned counsel for the State is present.

5. With consent of parties and having regard to the nature of grievance of the petitioners, the writ petition is disposed of with a direction to the S.H.O., Sheikhopursarai, District-Sheikhpura (respondent no. 7) to consider and dispose of the petitioners' representation sent through registered post on



22.04.2019 (Annexure-4), if pending, on its own merits and in accordance with law, preferably within two months hereof.

6. The writ petition stands disposed of.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.11.2019
Transmission Date	

