

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.133 of 2019

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

Sunaina Devi wife of Vasant Lal Thakur, resident of village- Malpur, Police Station- Patepur, District- Vaishali. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate/Collector, Vaishali.
3. The Superintendent of Police, Vaishali.
4. The Deputy Collector, Land Reforms, Mahua, Vaishali.
5. The Sub Divisional Officer, Mahua, District- Vaishali.
6. The Block Development Officer, Patepur, Vaishali.
7. The Circle Officer, Patepur, District- Vaishali.
8. The Govt. Amin Circle, Patepur, District- Vaishali
9. Halka Karmchari, Circle- patepur District- Vaishali.
10. The Police Station, Patepur through O/C P.S.- Patepur, District- Vaishali.
11. Mukul Kumar Singh, Baiju Singh, resident of village PS- Dhankaul, P.S.- Patepur, District- Vaishali.
12. Suresh Singh son of Ram Chandra Singh, resident of village- Asfari, P.O.- Tisauta, P.S.- Tisauta, District- Vaishali. Respondent/s

Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Advocate
For the Respondent/s : Ms. Divya Verma, Ac to AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 24-01-2019

Heard learned counsel for the petitioner and learned counsel for the State.

2. By way of the present writ petition the petitioner has prayed for a direction to be issued to the official respondents to hold enquiry in the alleged complaint filed by the petitioner before the court of Chief Judicial Magistrate for damaging the hut of respondents no.11 and 12. He has further prayed for restoration of possession and compensation for the damages done to the property.



3. The contention of the petitioner is that the petitioner has illegally been dispossessed by respondents no.11 and 12 for which he has already filed a complaint in the court of Chief Judicial Magistrate on December, 2018 and the enquiry is still pending. He seeks a direction be issued to the official respondents to restore possession of the petitioner on the land in question. Learned counsel for the petitioner admitted that the land dispute is going on over Khata No.636, Khesra No.4420, Thana No.557 situated at village-Malpur, P.S.-Patepur and despite the decision coming in favour of the petitioner by the court of Deputy Collector, Land Reforms, due to the high handed approach of the private respondents, the petitioner is not getting possession over her plot.

4. Per contra, learned counsel for the State submitted that in a purely civil dispute between two private parties relating to land, no allegation has been made by the petitioner against any action or inaction of the official respondents. In absence of failure of any public duty by the official respondents, no case for issuance of any writ is made out. He further contended that in case the petitioner has already filed a complaint, which is pending before the Chief Judicial Magistrate, no enquiry is required to be conducted under the order of the



court by the Superintendent of Police, as the court of Magistrate is competent to enquire into the matter under Section 202 of the Code of Criminal Procedure and, if required, in exercise of power under Section 202(2) of the Code of Criminal Procedure, the court may call for an investigation report from any authority. He further conducted that the question of right, title and possession can only be determined by a civil court of competent jurisdiction.

5. I have heard learned counsel for the parties and perused the record. I find substance in the submission of the learned counsel for the State.

6. Considering that no allegation has been made against any official respondent that failed to do any public duty as also in view of availability of an equally efficacious statutory remedy to the petitioner, I am not inclined to entertain the present writ petition.

7. The writ petition is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	NA
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