

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 395 of 2020

1. Parmanand Pathak, aged about 67 years, Male, Son of Late Baleshwar Pathak.
2. Mithilesh Pathak, aged about 64 years, Male, Son of Late Bindeshwar Pathak.
Both Resident of Village: Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.

... .. Petitioners

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Darbhanga.
3. The Sub- Divisional Magistrate, Biraul, Darbhanga.
4. The Block Development Officer, Kusheshwar Asthan, Darbhanga.
5. The Circle Officer, Kusheshwar Asthan, Darbhanga.
6. The Senior Superintendent of Police, Darbhanga.
7. The Deputy Superintendent of Police, Biraul, Darbhanga.
8. The Station House Officer, Kusheshwar Asthan, Darbhanga.
9. Bhola Sada son of Late Kanhai Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
10. Chandra Pal Sada son of Late Kanhai Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
11. Mintu Sada Son of Bhola Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
12. Vinod Sada Son of Bhola Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
13. Gauri Shankar Sada Son of Bhola Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
14. Nago Sada Son of Guleshwar Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
15. Bashi Sada Son of Nago Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
16. Bauna Sada Son of Laddo Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
17. Shambhu Sada Son of Bauna Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
18. Ranjeet Sada Son of Bauna Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
19. Ram Das Sada Son of Nago Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
20. Manna Sada Son of Bahur Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.



21. Rama Sada Son of Manna Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
22. Laxman Sada Son of Manna Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.
23. Hira Sada Son of Budhan Sada Resident of Village- Vishanupur, P.S. Kusheshwar Asthan, District- Darbhanga.

... ... Respondent/s

Appearance :

For the Petitioners : Mr. Sameer Ranjan, Advocate

For the State : Mr. Sajid Salim Khan with
Ms. Prakritita Sharma, AC to SC 25

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 24-02-2020

Heard learned counsel for the petitioners and learned AC
to SC 25 for the State.

2. The petitioners have moved the Court for the
following reliefs:

*“i) For directing the respondent authorities
to give protection to the private ancestral land
bearing Khata No. 241, 227, 229, Khesra No. 455
(old), 1086 (new) 2964 (new) (as contained in para
no. 5 to this writ application).*

*ii) For directing the respondent authorities
to gave protection the aforesaid ancestral land from
the private respondents of the present writ
application.*

*iii) For any other relief/reliefs granted to
the petitioners in terms and circumstances of the
case.”*



3. In nutshell, the petitioners wants the authorities to ensure that the private respondents do not disturb their peaceful possession on their lands.

4. Learned counsel for the State, at the very outset raised a preliminary objection and submitted that the petitioners' claim is too vague as it has only been stated in the application that the private respondents cut the tree or otherwise disturb the possession based on which the authorities cannot give protection round the clock just on such vague apprehension/ allegation by the petitioners. It was submitted that till date the petitioners have not moved for any demarcation of the lands as the private respondents, from the pleadings/materials on record, appear to be taking the stand that the land belongs to the Government. It was further submitted that for some criminal act of the private respondents, the petitioners have filed a complaint case, which, according to the learned counsel for the State has now to be dealt with by the concerned Court.

5. Having considered the aforesaid facts and circumstances, the Court finds substance in the contention of learned counsel for the State. Such a vague plea of the petitioners that the private respondent are disturbing their possession without, at first the lands being demarcated and further there being no



specific instances with regard to dates and persons concerned, a general allegation against 15 persons, in the considered opinion of the Court is too vague for the authorities to take any effective steps.

6. However, this does not mean that the authorities are not required to protect the *bona fide* and legal interest of the citizens including the petitioners. In the present case, because of the fact that the authorities have also recommended for action under Section 107 of the Code of Criminal Procedure, 1973 and the petitioners have also moved before the Court by filing complaint case and there being no specific instances given and most importantly, till date there being no official demarcation of the lands of the petitioners, in the considered opinion of the Court application under Article 226 of the Constitution of India based on such materials before the Court, no specific or positive direction can be issued to the authorities.

7. In view thereof, the writ petition stands disposed off with liberty to the petitioners to move before the appropriate forum, in accordance with law, for the grievance raised in the writ petition and depending on the response of the authorities, if the petitioners are still aggrieved, he may take further steps before the



appropriate forum for redressal of the same, at the appropriate stage.

(Ahsanuddin Amanullah, J)

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