

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2796 of 2018

In
Civil Writ Jurisdiction Case No.14255 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

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1. Ram Babu Gupta, S/o Late Janki Sao, Resident of Village-Jitanchhapra, Post-Rajipur, P.S.-Ranitalab (Kanpa), District-Patna
 2. Kamta Prasad Gupta, S/o Late Janki Sao, Resident of Village-Jitanchhapra, Post-Rajipur, P.S.-Ranitalab (Kanpa), District-Patna

... .. Petitioners

Versus

1. The State of Bihar Through The Senior Superintendent of Police, Patna
2. Inspector General of Police, Patna Zone, Patna
3. Senior Superintendent of Police, Patna
4. Superintendent of Police,(town)-Patna
5. Deputy Superintendent of Police, Kankarbagh, Patna
6. Deputy Superintendent of Police, (Headquarter), Patna
7. Officer-In-charge, Kankarbagh Police Station, Patna

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. N.K.Agrawal, Sr. Advocate
		Mr. Raj Kamal, Advocate
For the Respondent/s	:	Mr.Deepak Kumar, A.C. to G.P.-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 25-07-2022 Heard Mr. N.K. Agrawal, learned Senior Counsel for the petitioners assisted by Mr. Sanjeev Kumar, learned Advocate and Mr. Deepak Kumar, learned A.C. to G.P.-4 on behalf of the State.

Petitioners in the present case are seeking a direction to the respondent authorities particularly the Officer-in-charge, Kankarbagh Police Station, Kankarbagh, Patna to unlock the lock of Flat No. 95, Block No. 24, Ward No. 23, Circle No. 8A, Defence Colony, Lohia Nagar, Kankarbagh, Patna.

A perusal of the writ application would show that the



petitioners claim to have purchased the property vide a sale deed from one Sushila Marandi, wife of Late Francis Marandi and her two sons namely Mithun Marandi and Mukul Marandi. It is stated that the original owner namely Helen Tigga, wife of late David Tigga had sold the flat vide a registered sale deed in favour of Francis Marandi and after the death of Francis Marandi, his wife and two sons had sold it to the petitioners.

The petitioners claim that on the basis of a First Information Report being Kankarbagh P.S. Case No. 683 of 2015 and another F.I.R. bearing no. 719 of 2015 the Police arrested the petitioner no. 2 along with Raj Kumar Gupta and Rajeev Kumar Gupta. Later on they have been enlarged on bail. It is their further case that the Police has locked the flat in question which was being occupied by the petitioners.

Learned Senior Counsel for the petitioners submits that the Police has no authority to lock the premises in which the petitioners are residing.

On the other hand, Mr. Deepak Kumar, learned A.C. to G.P.-4 submits that by way of filing this writ application, the petitioners are trying to obtain a declaration of their title and recovery of possession with respect to the property in question. It is submitted that one title suit was earlier filed by Helen Tigga being Title Suit No. 223 of 2016 in the court of learned Sub-Judge-I, Patna. In the said title suit, she has stated that the plaintiff has one son namely



Arvind Tigga and one daughter namely Subhani Tigga who live with the plaintiff in the suit flat.

Learned counsel submits that even though this suit is said to have been dismissed for default, at this stage, the fact remains that the possession of the petitioners in the said flat has been disputed by the original owner. In such circumstance, it is submitted that the remedy of the petitioners would lie in the private law domain.

Having heard learned Senior Counsel for the petitioners and learned A.C. to G.P.-4, this Court is of the considered opinion that in the nature of the disputes involved in this case, no writ in the nature of mandamus may be issued. This dispute seems to be a private dispute between the parties and the Court would restrain itself from venturing into any enquiry as to the facts of the case.

This writ application is, thus, dismissed but with liberty to the petitioners to seek their remedy in appropriate jurisdiction before a competent court of law.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

