

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1452 of 2017**

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

Subodh Sah, Son of Late Narayan Sah, R/o Village- Badhepara, P.S.-  
Narpatganj, District- Araria.

... .. Petitioner

Versus

1. The State of Bihar
2. The Sub Divisional Officer, Farbesganj, Araria, Bihar.
3. The District Collector, Araria, Bihar.
4. The Officer Incharge, Narpatganj P.S., Narpatganj, Araria, Bihar.
5. The Superintendent of Police Araria, Bihar.
6. The Director General of Police, Bihar, Patna.
7. The Chief Secretary, State of Bihar, Patna.
8. Jaldhari Rishideo @ Jaldhari Sada Son of Late Munay Rishideo @ Late Jaharu Sada,
9. Bandelal Rishideo Son of Late Jahru Rishideo @ Late Munilal Sada,
10. Nageshwar Rishideo @ Nago Sada, Son of Late Mishari Rishideo @ Mishari Sada,
11. Manoj Sada Son of Rameshwar Sada,
12. Shiv Jee Sada Son of Mishri Sada,
13. Santosh Sada, Son of Late Fagu Sada,
14. Ashok Sada Son of Jaldhari Sada,
15. Vinod Sada Son of Jaldhari Sada,
16. Vishun Sada Son of Late Kusum Lal Sada,
17. Sorin Sada So of Mishri Sada,
18. Parmanand Sada Son of Mishri Sada,
19. Ramanand Sada Son of Late Chhavi Lal Sada, All R/o Village- Pulaha Chakardaha P.O.- Chakardaha, Ward No.- 13, P.S.- Narpatganj, District- Araria.

... .. Respondents

**Appearance :**

For the Petitioner/s : Mr. Shiv Shankar Sah, Advocate  
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      21-11-2022                      Heard learned counsel for the petitioner and learned  
  
AC to GP-4 for the State.



This writ application has been filed seeking a direction to the respondents for State to provide protection to the life and property of the petitioner.

Learned counsel for the petitioner submits that the petitioner has taken the land in question from the original landlords on patta/lease for agriculture purposes. It is his statement that the private respondents had earlier filed a case under Section 48E of the Bihar Tenancy Act against the landlord claiming therein that the land described in the schedule of the petition is being cultivated by them for more than 12 years. That gave rise to cases bearing nos. 21, 22 and 23 of 2011-12. This petitioner is said to have appeared as an intervenor-opposite party in the said case and after hearing the parties, the learned court below found that there is no prima-facie bonafide land dispute between the parties and the said application of the private respondents was dismissed vide order dated 31.08.2012. A copy of the order has been enclosed as Annexure '2' to the writ application. It is submitted that the order as contained in Annexure '2' has attained finality but the private respondents who were claiming their bataedari right have forcefully possessed some part of the disputed land and they have erected huts and are illegally preventing the petitioner from cultivating



the disputed area.

It is further submitted that Sub-Divisional Executive Magistrate had initiated a proceeding under Section 107 CrPC at the instance of the petitioner and a direction was issued to the private respondents to execute bond for maintaining peace and tranquility between the parties. In this regard, the petitioner has relied upon a copy of the police report as contained in Annexure '3' to the writ application. It is further stated that the Sub-Divisional Executive Magistrate, Forbesganj has passed an order against the private respondent directing them to execute interim bond for making peace and tranquility between the parties. The petitioner has relied upon the order dated 06.06.2014 passed by Sub-Divisional Executive Magistrate enclosed as Annexure '4' to the writ application. Learned counsel submits that despite the said order the private respondents have not executed the bond.

A counter affidavit has been filed which has been sworn by SDPO Araria-cum-DySP (HQ), Araria. In paragraph '12' thereof it is stated that the land in question belongs to Raghunandan Sah and his co-sharers and the petitioner is said to be a person who has taken the same on agreement for cultivation. It is stated that private respondents Jaldhari



Rishideo @ Jaldhari Sada and others were found in possession by constructing their kacha residential house in which they are residing and over some portion out of the disputed land the private respondent Jaldhari Rishideo has been doing cultivation work but they have not produced any piece of paper of their title and on inquiry they told that ancestor of the recorded land owner had orally given the disputed land to them for their homestead purposes. The deponent of the counter affidavit has stated that preventive action has been taken by way of initiation of a proceeding under Section 107 CrPC in between both the parties and at present, there is peaceful environment.

Having heard learned counsel for the petitioner and the State as also upon perusal of the records, this Court finds at first instance that the original land owners are not parties to this writ application. They are neither petitioners nor have they been arrayed as party respondents.

Further, this Court finds that on a portion of the disputed land, the private respondents are said to have constructed their hut and even though the petitioner claims that their possession is illegal and the Court finds from the counter affidavit of the DySP (HQ), Araria that the private respondents did not produce any document of title, in the opinion of this



Court, it is for the land owner or a person duly authorised by him in accordance with law to take appropriate steps for evicting the private respondents from the land in question but in no case sitting in its writ jurisdiction under Article 226 of the Constitution of India would enter into this dispute particularly when the matter is pending before the Sub-Divisional Magistrate, Forbesganj in Case No. 270M of 2013 and at this stage, 107 CrPC proceeding has also been initiated.

This writ application is, thus, being disposed of with liberty to the parties to seek their remedy in appropriate jurisdiction before appropriate forum in accordance with law. It is made clear that this Court has not entered into the merit of the contentions and all the contentions are left open to the parties.

**(Rajeev Ranjan Prasad, J)**

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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'.

