

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1371 of 2018

Arising Out of PS. Case No.-449 Year-2017 Thana- AGAMKUAN District- Patna

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Ashok Kumar Gupta Son of Surendra Sao, Resident of Munna Chalk, P.S-
Patrakar Nagar, Kankarbag, P.O.- Lohiya Nagar, Kanakarbag, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Bihar, Patna.
3. The District Magistrate, Patna, District Patna.
4. The Senior Superintendent of Police, Patna, District- Patna.
5. The Superintendent of Police Patna (East), District- Patna.
6. The Land Reforms Deputy Collector, Patna City, Patna.
7. The Sub-Divisional Officer Patna City, District- Patna.
8. The Dy. S.P. Patna, City District- Patna.
9. The Officer in Charge Agam Kuan Police Station, District- Patna.
10. The Managing Director, Bihar State Housing Board Patna.
11. The Executive Engineer, Bihar State Housing Board, Division-2, Patna.
12. The Assistant Engineer, Bihar State Housing Board, Division-2, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Sri Dharendra Kumar, Advocate.
For the State/s	:	Sri Manish Kumar, Advocate.
For the State/s	:	Sri Manoj Kumar, AC to GP-4 Advocate.
For the Husing Board	:	Sri Pawan Kumar, Advocate.
For the Husing Board	:	Sri Dinesh Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 04-08-2022 Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the Bihar State Housing Board.

The petitioner in the present case is seeking quashing of
the First Information Report being Agamkuan P.S. Case No. 449 of
2017 dated 15.09.2017 registered for the offences punishable under
Section 467, 468, 471, 447, 420 of the Indian Penal Code and Section



3 of the Damage of the Public Property Act.

A prayer has also been made to declare that unless the respondent authorities of the Bihar State Housing Board (hereinafter referred to as the 'Board') come to a definite finding, after getting the land demarcated, they have neither any right nor title to disturb the petitioner from his peaceful possession over the land purchased from the rightful owner which is outside the acquisition of land by the Board.

Learned counsel for the petitioner submits that in respect of the same an identical matter earlier Agamkuan P.S. Case No. 29 of 2016 dated 20.01.2016 under Section 467, 468, 471, 447, 420 of the Indian Penal Code and Section 3 of the Damage of Public Property Act was registered at the instance of the executive engineer of the Board Patna Division No. 2 Patna. The same was challenged by the petitioner in Cr. W.J.C. No. 703 of 2017. It is further submitted that after a detail hearing this Court has allowed Cr. W.J.C. No. 703 of 2017 and the said First Information Report and the subsequent proceedings have been quashed.

Learned counsel for the petitioner submits that this Court while quashing the F.I.R. has held that "unless it is so ordered by a competent court of law in duly constituted proceeding, no interference shall be made by the Board."

It is submitted that the present F.I.R. is nothing but a repetition of the first F.I.R. and it is liable to be quashed not only on



the identical grounds which have been considered by this Court in Cr. W.J.C. No. 703 of 2017 but also in view of the judgment of the Hon'ble Supreme Court in the case of **T.T. Antony v. State of Kerala** reported in **(2001) 6 SCC 181**.

Learned counsel for the State and the Board does not dispute that the F.I.R. involved in this case is in respect of the same and identical issue which was the subject matter of the first F.I.R. Learned counsel for the Board has, however, submitted that the part of the land bearing survey plot number 329 (Part) was subject matter of an acquisition, therefore, the Board has rightly asked the petitioner not to raise any construction over the land in acquisition.

Learned counsel for the Board has, however, not denied the fact that the land in question was subject matter of a measurement by the Revenue Amin and as per his report the land bearing plot No. 329 under Thana No. 10, Khata No. 79 is recorded in the revenue records as 'Kita Dhanhar' and the same is recorded in the Register II in the name of wife of the petitioner. So far as the factual aspect that the revenue records are concerned it is not denied that a Jamabandi bearing No. 1072/04 of 2014-15 has been created in the name of wife of the petitioner after carving out the same from old Jamabandi No. 1533/01. The facts stated in the counter affidavit filed by the Deputy Collector Land Reforms in Cr. W.J.C. No. 703 of 2017 equally holds the field in the present case.

Having regard to the submissions noted hereinabove and



the materials available on the records, since this Court finds that the present F.I.R. is a repetition of the first F.I.R. which was the subject matter of challenge in Cr. J.W.C. No. 703 of 2017 and it is on identical issues, this Court quashes the First Information Report being Agamkuan P.S. Case No. 449 of 2017 dated 15.09.2017 and all subsequent proceedings arising out of the same.

While parting with this order, this Court makes it clear that the Court has not gone into the question of title and possession in respect of the land in question and it is for that reason the Court has left it open to that extent that unless otherwise ordered by a competent court of law in a duly constituted proceeding, the Board would not interfere.

With the aforesaid observations, this writ application is stand disposed of.

(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'.

