

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1305 of 2016

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

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Sona Kumar Singh son of Late Ram Kumar Singh, Resident of Village-
Fulaut, P.S.- Chausa, District- Madhepura.

... .. Petitioners

Versus

1. The State Of Bihar, Through The Director General Of Police, Bihar, Patna
2. The Director General of Police, Patna Bihar.
3. The District Magistrate, Madhepura.
4. The Superintendent of Police, Madhepura.
5. The Sub-Divisional Officer, Udakishunganj, District- Madhepura.
6. The Circle Officer, Alam Nagar, District- Madhepura.
7. The S.H.O., Alam Nagar Police Station, District- Madhepura.
8. Manoj Ram, Son of Bindeshwari Ram,
9. Mithun Ram, Son of Bindeshwari Ram,
10. Karun Paswan, Son of Budhan Paswan,
11. Akhilesh Ram, Son of Nand Lal Ram Respondent No.8 to 11 resident of
Village- Ganaul, P.S.- Alam Nagar, District- Madhepura.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Respondent/s : Mr.Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 04-07-2022 Heard learned counsel for the petitioner and Md.

Irshad, learned AC to SC-1. Respondent No. 8 to 11 have

entered appearance through Mr. Nafisuzzoha, learned Advocate

whose name is printed on the cause list, but on record neither

there is any counter affidavit of respondent nos. 8 to 11 nor

learned counsel is present on their behalf.

This writ application has been filed for the following
relief:-



“(i) For issuance of an appropriate writ directing/commanding the respondents to provide police Assistance/security for cultivating the land at Mauza Kujauri, P.S. - Alam Nagar, District – Madhepura bearing Khata No. 30, Khesra No. 2824, 3058, 3089, 3091, 3092, 3099, 3100, 3101, 3102, 3101, 3104, 3105, 3106, 3117, 3299 total area 8.55 Acres.

(ii) For issuance of an appropriate writ directing/commanding the respondents to make free the aforesaid lands from the clutches of respondent nos. 8 to 11 who always disturb the petitioner for going over the land-in-question as the said lands are in the teeth of private respondent nos.8 to 11.

(iii) Any other relief or reliefs for which the petitioner is entitled under law as well as on fact.”

According to the petitioner, the Jamabandi of the land in question is created in the name of the grand-father of the petitioner namely, Late Anandi Prasad Singh. After his death, the petitioner is paying the rent for the said land to the State Government. Copy of the rent receipts have been brought on record as Annexure ‘1’. It is the case of the petitioner that the petitioner had been coming in peaceful possession over the land in question but time to time some antisocial elements and respondent nos. 8 to 11 with the help of local administration/police want to disturb the possession of the petitioner. The petitioner claims that in every season when the crops are sowed and thereafter they become ready for harvesting



the local people of Mauza Kujauri i.e. respondent nos. 8 to 11 forcibly come and harvest the crops with the help of respondent no. 5. There are allegations that the then S.D.O. (respondent no. 5) used to instigate the antisocial elements.

Learned counsel for the petitioner submits that on 15.12.2015 an application was filed on behalf of the petitioner before the Circle Officer, Alam Nagar. The said application was forwarded to the S.H.O., Alam Nagar for needful action but no action was taken thereon and on 15.11.2016 respondent no. 8 to 11 came there with fire-arm and threatened the petitioner asking him not to harvest the crops. In this regard, a written complaint was made before the S.H.O. of Alam Nagar and Superintendent of Police, Madhepura. On 30.08.2018 after hearing learned counsel for the petitioner, this court passed the following order:-

“State shall file a further counter affidavit showing as to how the land in question in respect of which revenue receipts are being issued to the petitioner can be said to be in possession of the Parcha Holders. The State shall bring complete facts on the record for the purpose of adjudication.

List this matter on 17th September, 2018 maintaining its position.

In the meantime, if the petitioner makes a representation to the Superintendent of Police, Madhepura with all documentary evidence to show that they are facing dispossession or disturbance, the same will be considered by the Superintendent of Police, Madhepura



immediately and appropriate measure shall be taken to save the petitioner from dispossession, if so threatened.”

Again on 17.09.2018, this court when found the State had not filed counter affidavit granted another indulgence subject to payment of cost to the State to file their counter affidavit.

On 26.10.2018, this court noticed the specific statements made in paragraph 8 of the supplementary counter affidavit filed on behalf of the Circle Officer (respondent no. 3). The said order is being reproduced hereunder for a ready reference:-

“In paragraph-8 of the supplementary counter affidavit filed on behalf of the Circle Officer (respondent no. 3), the following statements have been made:

“8. That it is further submitted that description of land indicated in the Purcha doesn't match with the land indicated by the petitioner in the writ. The Anchal Amin has examined and ascertained the old khata and khesra with corresponding new khata and khesra of the Revisional Survey and found that these pieces of land haven't been distributed to private respondents 8 to 11 as a surplus land.”

In view of the above, let a notice be issued to the private respondent nos. 8 to 11 by both modes, ordinary process as well as registered cover with A/D, for which requisites etc. must be filed within one week, failing which this application shall stand



rejected without further reference to a Bench.

Let the matter be listed within a week on receipt of service report.

In the meantime, status quo as on today shall be maintained.”

At this stage, learned counsel for the petitioner submits that pursuant to the order of this court the security was provided to the petitioner and he was allowed to harvest the crops but the petitioner has reasonable apprehension in his mind that unless this court passes specific order directing the Superintendent of Police, Madhepura to provide such security whenever required, the private respondents may go on creating same and same situation again and again. This may also cause a law and order issue which must be taken care of by the Superintendent of Police, Madhepura.

Learned counsel for the State submits that earlier the Superintendent of Police, Madhepura had directed the S.H.O. of Alam Nagar to submit a report and the S.H.O. submitted a report saying that the purcha holders are in possession of the land involved in the writ application and they are cultivating the land for about 2 – 3 years. He also informed that there was no dispute over the land for the last 16-17 months. The Superintendent of Police has also taken note of the submissions made on behalf of the petitioner who claims that after death of



his father since two years the private respondents are trying to dispossess the petitioner and somehow want to grab the land with the help of antisocial elements.

It appears from Annexure 'B' to the supplementary counter affidavit of the Dy.S.P. (Headquarter) that the Superintendent of Police, Madhepura has directed the S.H.O. to keep vigil over the land in question and in case it is found that anybody is trying to do any act which may cause public disorder he should take lawful action against him/them.

Having heard learned counsel for the petitioner as well as learned counsel for the State, this Court finds that so far as the land which are involved in the writ application are concerned, the report of the Circle Officer categorically says that no purcha in respect of those land have been issued. Paragraph '8' of the supplementary counter affidavit filed on behalf of the Circle Officer (respondent no. 3) has been taken note of by this court in it's order dated 26.10.2018.

To this Court, it appears that on the face of the report of the Anchal Amin and the stand of the Circle Officer (respondent no. 3), there is no scope for disputing the existing position that the private respondents do not possess any purcha in respect of the land which are involved in this writ application.



The description of the land with khata number, khesra number and area may be found in Annexure '2' to the writ application.

If this is the position appearing from the record unless the private respondents come out with any decision of a competent court of law otherwise, the Superintendent of Police, Madhepura would be obliged to ensure that nobody dispossesses the petitioner from his land and in case due to any disturbance caused by an antisocial element there is any chance or likelihood of causing harm to the petitioner and his property, an appropriate action in accordance with law shall be taken by the Superintendent of Police, Madhepura to save the law and order situation.

Let it be recorded that no part of the order of this court shall disentitle either parties from raising any plea as may be advised to them before a competent court of law with respect to right, title and and possession of the property in question.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

