

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)**

Criminal Writ Jurisdiction Case No.1257 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

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Satyendra Kumar Son of Sharda Nand Singh Resident of Village - Nai Sadak
Chowk, Jamunaji ka Math, P.O.- Jhauganj, P.s.- Chowk, Dist.- Patna.

... .. Petitioner

Versus

1. The State of Bihar through Director General of Police, Govt. of Bihar, Patna. Bihar
2. The Director general of Police, Bihar, Patna. Bihar
3. The Inspcetor General of Police, Patna Division, Patna. Bihar
4. The Senior Superintendent of Police, Patna. Bihar
5. The Officer in charge, Ramkrishna Nagar Police Station, Patna. Bihar
6. The Ram Gulam Singh , Investigating officer, Ramkrishna Nagar P.S., Patna. Bihar
7. The District Magistrate Patna. Bihar
8. the Sub Divisional officer, Patna Sadar, Patna. Bihar
9. Brajesh Kuamr Son of Rai Gati Singh Resident of Village - Progressive Colony, P.o.- T.V. Tower, P.S.- Agamkuan, Distt.- Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Ranjan, Advocate

For the Respondent/s : Mr.Md. Nasrul Huda Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 11-11-2022 This matter was sought to be disposed of on oral mentioning made by learned counsel for the petitioner. Learned counsel was asked to inform learned SC-1 for this purpose, however, because learned counsel for the petitioner could not inform learned counsel for the State on the said date, but inadvertently the proceeding was shown as disposed of. At the instance of this Court, the matter has been listed under heading 'To Be Mentioned' today.

2. Learned counsel for the petitioner submits that on the



said date, he could not inform learned counsel for the State and therefore, he had not come back to inform the same to this Court.

3. In the aforesaid view of the matter, this case has been heard today.

4. Heard Mr. Alok Ranjan, learned counsel for the petitioner and Mr. Md. N.H. Khan, learned SC-1 for the State.

5. This writ application has been filed seeking the following reliefs:-

“(i) For directing and commanding the respondent authorities to open/unlock the seal/Lock of the Banquet Hall of the petitioner, in the name and style of M/S Maurya Bihar, situated at Mauja-Jaganpura, New Bypass Road, opposite Patna Central School, thana no. 26, Khata no. 16, khesra no. 1103 in Ramkrishna Nagar police station as the same has illegally been sealed by the respondent authorities without there been specific order of sealing the Banquet hall of the petitioner.

(ii) For quashing and setting aside the entire proceeding relating to case no. 1009(m)/2021 pending before Sub-divisional-officer Sadar Patna, under the garb of which the Banquet hall of the petitioner has been sealed, whereby and where under the same has only been initiated in connivance with respondent no. 9 to disturb and harass the petitioner physically, mentally, socially, economically and to crush the reputation of the petitioner and his Banquet Hall.

(iii) For holding that the entire action of respondent authorities initiated is bad in law and abuse of process of law and further for providing appropriate security to the life and property of the petitioner along with his family members, as there is serious threat to the life and property of the petitioner and his family members, from respondent no. 9.

(iv) For any other appropriate relief/reliefs to



which the petitioner is found entitled in the facts and circumstances of this case.”

6. Learned counsel for the petitioner submits that the petitioner along with three of his other friends started business in the name and style of M/s Maurya Bihar. They opened a Banquet Hall and in this connection, they approached the land owner who had their vacant land situated in Mauja-Jaganpura, Ramkrishna Nagar. A lease deed was accordingly executed for a period of 11 years on 31.07.2014.

7. It is further case of the petitioner that pursuant to the lease deed executed between partnership firm and the land owners a Banquet Hall in the name and style of M/S Maurya Bihar was constructed and the firm started its business smoothly but all of a sudden dispute arose between the respondent no. 9 and other partners. The allegation is that respondent no. 9 and the land owners wanted to oust the petitioner and other partners from the business of Banquet Hall. Respondent no. 9 is said to have persuaded the land owners to get the land in question vacated without understanding that the lease deed was valid till the month of July 2025.

8. The petitioner claims that he filed a Title Suit No. 81 of 2019 in the court of learned Sub-Judge 1st, Patna in which respondent no. 9 is a party and the land owners as well as respondent no. 9 have appeared in the said suit. The land owners



are said to have filed an Eviction Suit No. 08 of 2020 in the learned Sub-Judge 1st, Patna. It is orally submitted on instruction that said eviction suit brought by the land owners has been dismissed but whether the dismissal is on merit or for any other reason is not known to learned counsel for the petitioner.

9. Learned counsel for the petitioner submits that during the pandemic Covid-19, the Banquet Hall remained closed but thereafter in the year 2021, the respondent no. 9 acted with malice and with the help of the police authorities filed a complaint giving rise to Ramkrishna Nagar P.S. Case No. 237 of 2021 registered for the offences alleged under Section 420/406 of the Indian Penal Code. In this case, the petitioner has approached learned District and Sessions Judge, Patna for interim protection. It is his further submission that the respondent no. 9 has in many ways harassed the petitioner by approaching the electricity company and got disconnected the electric connection of the Banquet Hall. He has also approached the S.D.M., Patna by filing a case bearing case no. 849(M)/2021 under Section 144 Cr.P.C. in which the petitioner has filed his reply. It is further stated that a proceeding under Section 144 CrPC has been instituted by learned S.D.M., Sadar, Patna giving rise to case no. 1009 of 2021. A notice was issued in the said case and the Banquet Hall has been illegally sealed which was wholly without jurisdiction.



10. Learned counsel submits that during the pendency of this writ application, the learned coordinate Bench passed an interim order wherein respondent no. 5 was directed to unseal the Banquet Hall of the petitioner. Learned counsel for the petitioner submits that after the said interim order the Banquet Hall was unsealed but respondent no. 9 and the land owners have again locked the Banquet Hall and thereby they have deprived the petitioner from running the Banquet Hall. It is submitted that this Court may, therefore, direct for unlocking/unsealing of the Banquet Hall and quash the entire proceeding pending before the learned Sub-Divisional Officer, Sadar, Patna.

11. Mr. Khan, learned Standing Counsel for the State has submitted that there seems to be serious a dispute between the petitioner and respondent no. 9 as also with the land owners. It is further submitted that admittedly the Banquet Hall is being run by a partnership firm through four partners but this writ application has been filed by this petitioner alone. The other partners and the firm have not been made petitioner in this writ application.

12. It is further submitted that from the plaint of title suit (Annexure '3') it would appear that the partnership firm and three partners thereof have filed the civil suit praying for various reliefs including that for restraining the defendant first party and defendant second party from committing any overt act, evicting



the plaintiffs from the suit property illegally or by force. A declaration has been sought that the defendant first party is not entitle to dispossess the plaintiffs from the suit property.

13. Learned counsel for the State submits that this case involves a serious dispute of partnership and the claim of the petitioner that he be allowed to run the Banquet Hall by directing the official respondents to unseal and unlock the premises is not fit to be granted.

14. Having regard to the aforesaid submissions and the materials available on the record, this Court finds substance in the submission of learned Standing Counsel for the State. The records would reveal that the partnership deed (Annexure '2') shows name of five partners as first party. Respondent no. 9 is one of the partners of the firm. Clause 22 of the partnership deed specifically states that no partner will, except with the consent of the other partner previously obtained in writing would file or withdraw a suit or other legal proceeding on behalf of the firm. This Court, therefore, finds that filing of the writ application by the petitioner alone without impleading the partnership firm and other partners as petitioners would render this writ application suffer from non-joinder of necessary parties.

15. This Court, further, finds that a title suit is already pending in respect of disputes among the partners and the land



owners and in the said title suit the three partners and the partnership firm have joined as plaintiff whereas two partners namely Brajesh Kumar and Nagesh Kumar Gupta have been made defendant second party. Reliefs have been claimed in the title suit against the defendants - 2nd party also. The title suit is still pending.

16. In the nature of the disputes involved, this Court would not entertain this application in its extraordinary writ jurisdiction.

17. This writ application as framed is hereby dismissed.

18. The dismissal of the writ application would, however, not come in the way of the either parties in seeking remedy before appropriate court/forum as may be advised to them in accordance with law.

(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'.

