

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.414 of 2019

In
Letters Patent Appeal No.201 of 2019

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Mir. Mohammad Islam, S/o late Mir Chhedi, R/o village-Umar Mathiya, PS
Manjhagarh, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The DGP, Patna.
3. The DIG, Saran, Chhpara.
4. The Commissioner, Saran at Chhapra.
5. The Collector, Gopalganj.
6. The Superintendent of Police, Gopalganj.
7. The SHO Manjhagarh, District Gopalganj.
8. Makshud Sai, s/o late Pir Mohammad Sai, r/o village Dhankhar, PO and PS
Manjhagarh, district Gopalganj.
9. Mahmudan Sai, s/o late Pir Mohammad Sai, r/o village Dhankhar, PO and
PS Manjhagarh, district Gopalganj.
10. Matloob Sai, s/o late Pir Mohammad Sai, r/o village Dhankhar, PO and PS
Manjhagarh, district Gopalganj.
11. Mahaboob Sai, s/o late Pir Mohammad Sai, r/o village Dhankhar, PO and PS
Manjhagarh, district Gopalganj.
12. Ayub Sai, s/o late Pir Mohammad Sai, r/o village Dhankhar, PO and PS
Manjhagarh, district Gopalganj.
13. Shivonath Dhanuk, s/o late Indrason Dhanuk, r/o village Dulduliya, P.O and
P.S. Manjhagarh, district Gopalganj.
14. Babulal Dhanuk, s/o Sita Mahato, r/o village Dulduliya, P.O and P.S.
Manjhagarh, district Gopalganj.
15. Rajbali Dhanuk, s/o Sita Dhanuk, r/o village Dulduliya, P.O and P.S.
Manjhagarh, district Gopalganj.
16. Shiobali Dhanuk, s/o Sita Dhanuk, r/o village Dulduliya, P.O and P.S.
Manjhagarh, district Gopalganj.
17. Rajdeo Dhanak, s/o Sita Dhanuk, r/o village Dulduliya, P.O and P.S.
Manjhagarh, district Gopalganj.
18. Baldeo Dhanak, s/o Sita Dhanuk, r/o village Dulduliya, P.O and P.S.
Manjhagarh, district Gopalganj.



19. Munni Dhanuk, s/o Sita Dhanuk, r/o village Dulduliya, P.O and P.S. Manjhagarh, district Gopalganj.
20. Bishwanath Dhanuk, s/o late Indrason Dhanuk, r/o village- Pipra Tola Dulduliya, PO and PS Manjhagarh, district- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Kant, Advocate
For the Opposite Party/s : Mr. Mankeshwar Tiwari, Advocate

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

Date : 21-12-2022

This case has been specially assigned to this Bench.

Heard Mr. Chandra Kant, learned Advocate for the petitioner and Dr. Mankeshwar Tiwari for the State.

The petitioner had approached this Court earlier, vide C.W.J.C. No. 16941 of 2017, seeking a direction to the official respondents to provide protection to him for maintaining his land, legally declared to be his, against any undue interference.

In the Title Suit No. 18 of 1984, the title to the



land in question was confirmed in favour of the petitioner; though of course, the suit was decreed only on the basis of compromise. However, the respondents herein, who had agreed to the decree of the suit, had been making efforts at destabilizing the petitioner. In fact, some of them had filed Land Dispossession Case No. 8 of 2016-17 claiming that part of the land belonging to the petitioner had been settled in their favour by Bhoodan Yagan Committee, but their contention was rejected by the D.C.L.R., who had found that in the record of rights, the land was shown to belong to the ancestors of the petitioner. The petitioner was also found to be in possession of the said land. In that context, the learned Single Judge hearing the writ petition preferred by the petitioner, allowed the prayer and directed the District Magistrate, Gopalganj to consider his request to provide suitable protection to him to save his life and property.

During the pendency of the aforementioned petition



before the Collector, the order dated 04.12.2018 passed in C.W.J.C. No. 16941 of 2017, was appealed against in L.P.A. No. 201 of 2019, in which an order was passed on 15.11.2019 modifying the order passed by the learned Single Judge to the extent that the right to protection could only be with respect to life, but not with respect to property of the party; for crystallization of which rights, the petitioner could go for civil litigation. In that case, it would always be open for the parties to take recourse to such remedies as are otherwise provided in law for seeking enforcement of such rights, which cannot be protected in view of the disputed assertion, specially in a writ petition.

The aforementioned propositions, in the order of the Division Bench, which is sought to be reviewed by the petitioner, cannot be faulted with.

In fact, the petitioner had approached the learned Single Judge for protection against his life, as he apprehended danger to his life because of the dispute



pertaining to the land rights. The learned Single Judge, in C.W.J.C. No. 16941 of 2017 had not accepted the contention of the petitioner that the land belonged to him. The Court had only relied upon the statement made by the petitioner that the Title of the aforesaid land was concretized through a decree of the civil court and the claim of the private respondents that the land in question had been settled in their favour by the Bhoodan Yagan Committee, was rejected. Thus, the learned Single Judge directed the District Magistrate to consider the application of the petitioner with respect to providing safety to him. It was obviously for his life and property. In case, there was any dispute with respect to property, that could be agitated only before a competent civil court or any other appropriate forum. The Superintendent of Police could not have, in any case, given possession to the petitioner, in case he had been dispossessed. The official respondents would have been under an obligation, by virtue of the order of the learned Single



Judge, as also otherwise, to protect the life and liberty of every citizen.

We find that in the order dated 15.11.2019 passed by the L.P.A. Court, the same proposition has been explained by taking note of the fact that the property rights of the petitioner stood crystallized by way of civil litigation, which could only be challenged before any legal forum by the other side, if so desired.

No fault could be found in the order dated 15.11.2019 in articulating the proposition that no order can be passed under Article 226 of the Constitution of India for crystallizing the property rights in case of divergent stand of the claimants to the property.

The petitioner seeks a review of the order dated 15.11.2019, perhaps under the mistaken notion that the protection secured to him by the learned Single Judge was interfered with in appeal, but without noticing him.

We do not find that the appellate court was required to notice the petitioner, specially when no order



was being passed against him, but only a declaratory order was being passed, that for personal protection, a party could invoke the writ jurisdiction under Article 226 of the Constitution of India, which would not be true for property rights, which has to be decided under the general law by a court of competent jurisdiction. By declaring this proposition of law, none of the parties, neither the petitioner nor the officials or private respondents get any freedom/licence to avoid enforcing law and order and personal safety of the petitioner.

Seen in this context, we do find any reason to review the order dated 15.11.2019, but we do clarify that the order sought to be revised, has not taken away the right of the petitioner to approach the Superintendent of Police to provide protection to him, in case the threat perception continues and the Superintendent of Police is obligated to take necessary measures, in case he finds the threat perception to be real and genuine and not illusory.



The review petition stands disposed of
accordingly.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
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