

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4348 of 2023

Taj Ahmad Son of Late Mushtaque Ahmad, resident of village- Birdipur, P.O. - Arai Birdipur, Via - Kansi Simri, Anchal - Singhwara, P.S. - Simri, District - Darbhanga. At present residing at - House No. 636/9, Second Floor, Zakir Nagar, P.S. Jamia Nagar, Okhla, New Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Home (Police), Bihar, Patna.
3. The Principal Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
4. The Secretary, Department of Mines, Government of Bihar, Patna.
5. The District Magistrate-cum-Collector, Darbhanga.
6. The Senior Superintendent of Police, Darbhanga.
7. The Sub-Divisional Magistrate, Sadar, Darbhanga.
8. The Sub-Divisional Police Officer, Sadar, Darbhanga.
9. The District Mining Officer, Darbhanga.
10. Sri Chaudhary Basant Kumar Singh, Circle Officer, Anchal - Singhwara, Darbhanga.
11. Sri Sharmshad Ahmad Khan, S.H.O (Officer-in-Charge), Simri Police Station, Darbhanga.
12. Abdul Rahman @ Dano, Son of Late Abdul Rashid, Resident of Birdipur, P.O. - Arai Birdipur, P.S. - Simri, District - Darbhanga.
13. Arman Rashid, Son of Late Abdul Rashid, Resident of Birdipur, P.O. - Arai Birdipur, P.S. - Simri, District - Darbhanga.
14. Ata Karim, Son of Late Md. Muslim, Resident of Birdipur, P.O. - Arai Birdipur, P.S. - Simri, District - Darbhanga.
15. Md. Zafeer Ahmad, Son of Late Md. Muslim, Resident of Birdipur, P.O. - Arai Birdipur, P.S. - Simri, District - Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Iqbal Asif Niazi
For the Respondent/s	:	Mr.Md. Khurshid Alam (Aag12)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 10-11-2023 The present writ petition has been filed seeking the following reliefs:-



“1(i). For issuance of a writ in the nature of ‘mandamus’ directing the concerned respondents to protect the valuable constitutional right of the petitioner to have property and enjoy the same and restrain the private respondents from illegal excavation upon the petitioner’s land appertaining to Khata No. 1248, Khesra No.4312 measuring an area 1 Acre 76 decimal (1 Bigha 19 Katha 3 Dhur), situated at Mauza - Arai, Anchal - Singhwara, District Darbhanga and to provide protection to the petitioner as he happens to be the lawful owner of the said property.

(ii). For further to ensure that the petitioner is not harassed by the respondents as admittedly there is no dispute of title over the land of the petitioner which is his ancestral property over which Jamabandi no. 357 is running in the name of petitioner’s father and the private respondents in collusion with local Circle Officer and S.H.O are excavating over his land without authority and the state respondents have become mute spectator thereby perpetuating illegality.

(iii). For further directing the concerned authorities to take appropriate action against the private respondents on the representation of the petitioner so that he is able to enjoy the benefit of the land in question on which he is being harassed by the private respondents due to illegal excavation in connivance with local Circle Officer and S.H.O by taking law in their hand and



constantly threatening the petitioner of dire consequences and though the petitioner has approached all the competent authorities but they have not taken any appropriate action to ensure the safety of the life and property of the petitioner.

(iv). For further prayer to compensate the petitioner for illegal excavation have been done by the private respondents on his raiyati land in connivance with respondent No.10 and 11 which is evident from the report of District Mining Officer, Darbhanga (respondent No.9).”

2. The District Magistrate, Darbhanga, had filed a counter affidavit on an earlier occasion, wherein reference has been made to the inquiry report dated 25.10.2023, submitted by the Enquiry Team, comprising of the Additional Collector, Darbhanga, Deputy Collector, Land Reforms, Sadar Darbhanga and the Senior Incharge Officer, Singhwara Block, wherein certain findings have been recorded, which have been summarized in paragraphs no. 8 to 11 of the aforesaid counter affidavit, which are reproduced hereinbelow:-

“(8). That it is humbly submitted that the R.S.Khatiyani attached to the submitted enquiry report signifies the fact that the land in question appertaining to khata no. 4248, kheshra no. 4312,



is recorded in the name of Mustaque Ahmad s/o Zahid Hussain, and the same is the Raiyati Land. The submitted report also transpires the facts that there is a rivalry dispute between the petitioner and the respondent no. 12 to 15 relating to the land in question.

(9). That it is further respectfully submitted that in due course of enquiry, the enquiry committee has found that the land in question is a low land and is full of water in which fishery work is being done by the local people. The submitted report also transpires the fact that on being enquired of the fact relating to having illegal excavation in the land in question, the local people does not clearly say about the said excavation and in the same, due to water logging at the spot, alleged excavation cannot be verified and authenticated.

(10). That it is further respectfully submitted that the submitted report also signifies the fact that on earlier occasion, the land in question has been enquired by the Additional Collector, (Departmental Enquiry) Darbhanga who has submitted its report vide letter no. 18 dated 30-01-2023 stating the fact that no clear proof of having excavation in the land in question has been found due to having water logging at the relevant period.

(11). It is further respectfully submitted that pursuant to the observation made in the submitted report as well as seeing the nature and



circumstances of the case i.e. basically having allegation of the theft of petitioner's soil by private respondents no. 12 to 15 and as per submission of the petitioner relating to non-action of the S.H.O., Simri, Darbhanga, the respondent the District Magistrate, Darbhanga, vide letter no. 3140/DL dated 28-10-2023 has aptly approached the matter before the Senior Superintendent of Police, Darbhanga, with a direction to lodge an F.I.R. in relation to petition/complaint filed by the petitioner and to make proper investigation into the matter and to do needful as required.”

3. Today, the Deputy Superintendent of Police (Headquarters), Darbhanga, has appeared before this Court and has submitted that an FIR bearing Simri P.S.Case No. 234 of 2023 has already been lodged against the accused persons named therein and the investigation has also been conducted, whereupon, the Sub-Divisional Police Officer, Sadar, Dharbhanga, has submitted his supervision note dated 9.11.2023, pursuant whereto, the Superintendent of Police, Darbhanga, is in the process of taking further action, in accordance with law. Let the aforesaid report dated 9.11.2023 be kept on record.

4. In view of the aforesaid developments, this Court is satisfied that the Respondent authorities have taken appropriate



steps for redressal of the grievances of the petitioner and for ensuring that the rule of law prevails.

5. Nonetheless, this Court deems it fit and proper to grant liberty to the petitioner and the Respondents No. 12 to 15 to avail such other alternative remedies as are otherwise available under the law for redressal of their respective grievances.

6. Accordingly, the present writ petition stands disposed off.

(Mohit Kumar Shah, J)

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