

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.710 of 2023

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

KUSHAL KUMAR son of Vinay Kumar Yadav Resident of Parbatiya Tola
Po- Belabag Ward no-1 Bettiah West Champaran

... .. Petitioner

Versus

1. The State of Bihar, through the Director General of Police, Bihar, Patna
2. The Superintendent of Police, West Champaran at Bettiah
3. Rakesh Bhaskar, Officer Incharge, Police Station Bettiah Mufasil, West Champaran at Bettiah
4. Devendra Kumar, ASI, posted at Police Station Bettiah Mufasil, District West Champaran at Bettiah
5. Akhilesh Thakur ASI posted at Police Station Bettiah Mufasil, District West Champaran at Bettiah
6. Thakur Patel son of not known Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
7. Sankar Ram son of Dukhharan Ram Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
8. Bharat Ram son of Santan Ram Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
9. Ram Chandra Yadav son of Jangal Yadav Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
10. Devaki Ram son of Sukhal Ram Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
11. America Ram son of not known Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
12. Rakesh Ram son of Late Bharat Ram Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
13. Chandra Shekhar Ram son of Thug Ram Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
14. Bijli Ram son of Chirkut Ram Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
15. Harendra Ram son of not known Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran
16. Gyanchandra Ram son of not known Village- Majhiya Seikhona Math Tola PS- Bettiah Mufasil Dist- West Champaran

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Advocate
For the Respondent/s : Mr. M. Nasrul Huda Khan

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER



3 07-12-2023 Heard learned for the petitioner and learned counsel for the State.

2. Petitioner in the present writ application is seeking a writ in the nature of mandamus commanding the respondent authorities to take immediate steps to protect the life and property of the petitioner and his family members. He further prays for a direction to the respondent authorities to remove the lock of police officials from the premises of the petitioner and restore his possession over the property.

3. Learned counsel for the petitioner submits that the petitioner and his family members were living in the property in question since 07.09.1995. Father of the petitioner had filed a title suit bearing T.S. Case No. 38 of 1999 in respect of the said property in the learned court below. It is his case that the property in question belong to one Madhu Kohli. It measures about ten *bighas* of land on which there are orchard and house. Father of the petitioner claimed that during his lifetime, the husband of Madhu Kohli, namely, Krishna Kohli was looking after the property but after his death, Madhu Kohli came from Delhi to the State of Bihar and handed over power of attorney in favor of plaintiff for looking after the property and since then the plaintiff is looking after the same. In the plaint, a further case has been set up that in respect of the property, *parchas* have been issued which are illegal and on the



strength of those *parchas*, the defendants want to usurp the land.

4. Learned counsel submits that the learned Sub-Judge-IV, Bettiah had passed an order of status-quo in the said suit. During the pendency of the suit and operation of the order of status-quo, the defendants made attempts to take forceful possession of the property which is subject matter of the suit.

5. By filing this writ application, the petitioner claims that the respondent nos. 6 to 16 are the land grabbers and they together with the local administration, including the police officials, came over the suit land in two jeeps and asked the petitioner to open the door of the house. It is alleged that they entered and starting evicting the petitioner and his family members. The petitioner and the family members were forced to leave the house whereafter the police personnel have put their own locks and the keys have been kept in the police station.

6. In this case, a counter affidavit has been filed on behalf of the State. From the statements made in the counter affidavit it appears that according to the respondents, the father of the petitioner Bhikhari Yadav @ Vinay Kumar Yadav tried many times to enter into the building on the basis of some sham and forged documents. It is stated that the Police always stopped the petitioner and his father from taking undue possession over the building and they tried to maintain law and order over which the



petitioner and his father threatened the police personnel to implicate them in a false case. It is stated that Anchal Parcha under Ceiling Act bearing Record No. 05/90-92 of Khata No. 91, Khesara No 669 area measuring 70 decimal has been issued in the name of Nakchhed Ram in connection with the house and land for which the petitioner has mentioned as his own house in the petition. This house is in ruined condition having no door and window. It is further stated that Bhikhari Yadav @ Vinay Kumar Yadav, who is father of the petitioner, has got at least twelve criminal antecedents and in all the cases he has been chargesheeted, whereas this petitioner has also got a criminal antecedent.

7. Having regard to the facts and circumstances of the case, in the nature of the pleadings available on the record seriously disputing the contentions of the petitioner and there being a title suit already pending in respect of the property, this Court would not entertain this writ application as it is not a fit case to exercise extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India.

8. This writ application is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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