

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.758 of 2023

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

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BABITA DEVI Wife of Late Praveen Rai R/o- Mahavir Chowk, Ward No.- 7,
Bangawon Road, Infront of Shiv Shakti Medical Agency, P.S.- Sadar, District
– Saharsa ... Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Home Department,
Government of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Koshi Range, Saharsa
4. The D.I.G., Koshi Range, Saharsa
5. The District Magistrate, Saharsa
6. The Superintendent of Police, Saharsa
7. The Circle Officer, Anchal-Kahra, District - Saharsa
8. The Station House Officer, Sadar Saharsa, District - Saharsa
9. Raushan Kumar Son of Late Nand Kishore Rai Resident of Mahavir Chowk,
Ward No.- 7, Bangawon Road, Infront of Shiv Shakti Medical Agency, P.S.-
Sadar, District - Saharsa
10. Deepak Kumar Son of Late Nand Kishore Rai Resident of Mahavir Chowk,
Ward No.- 7, Bangawon Road, Infront of Shiv Shakti Medical Agency, P.S.-
Sadar, District - Saharsa
11. Santosh Kumar @ Radhe Son of Late Nand Kishore Rai Resident of
Mahavir Chowk, Ward No.- 7, Bangawon Road, Infront of Shiv Shakti
Medical Agency, P.S.- Sadar, District - Saharsa
12. Smt. Rita Devi Wife of Late Nand Kishore Rai Resident of Mahavir Chowk,
Ward No.- 7, Bangawon Road, Infront of Shiv Shakti Medical Agency, P.S.-
Sadar, District – Saharsa ... Respondents

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Appearance :

For the Petitioner : Mr.Om Prakash Kumar, Adv.
For the Respondents : Mrs. Babita Kumari, AC to SC I

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 03-05-2023 Heard learned counsel for the petitioner and the State.

The present application has been filed for seeking
direction to respondents no. 5 to 8 to remove the temporary hut
from the ancestral land of the petitioner and further to protect



the life and property of the petitioner under Sections 21 and 22 of the Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012, and further to provide protection to the petitioner's family during constructing the house/wall on the ancestral land as respondents no. 9 to 12 are threatening to the petitioner to kill.

Counsel for the State submits that the base allegation of the petitioner is Annexure 3 and upon going through the contents of Annexure 3 it transpires that it is absolutely a private dispute going on between the family of two brothers, which the petitioner wants to resolve by virtue of taking order from this Court.

Upon going through the reliefs it transpires that petitioner wants remedy under the Bihar Maintenance & Welfare of Parents & Senior Citizens Rules, 2012. Counsel for the petitioner has failed to understand that under what situation the present law is applicable. This Rule is especially made for senior citizens. The State Legislature has notified the said Rule in exercise of the power conferred to the State Government by Section 32 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Central Act 56 of 2007). The said Act categorically defines the term senior citizens in Section 2(h)



of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, means any person being a citizen of India who has attained the age of 60 years or above. Here in the present case the age of the petitioner is 48 years, therefore, this Act is not applicable at all and, hence, the petitioner is not entitled for the second relief.

So far as the other reliefs are concerned, the private respondents and petitioner are admittedly the family members. They are the co-parceners and, therefore, they are at liberty to exhaust the remedy by way of moving before Sarpanch or by way of filing civil suits and this Court is not inclined to grant any relief(s) or any observation in this case.

Therefore, this writ petition is **dismissed**.

(Dr. Anshuman, J)

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