

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.834 of 2022

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

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1. Badre Alam Son of Shamshuddin Ansari Resident of Dakbunglow Chowk Frazer Road, Patna, Aristo Tailors Shop No.- B/8, Avanti Complex Patna, P.S.- Kotwali, P.O.- G.P.O., District - Patna.
 2. Ravi Kumar Gupta Son of Om Prakash Resident of Mohalla - Hanuman Nagar, P.S.- Kankarbagh, District - Patna.
 3. Pramod Chandra Pal Son of Guru Das Pal Resident of House No.- 2L/40 Mahatma Gandhi Road, Near Awadh Apartment Bhoot Nath Road, P.S.- Agam Kuan, District - Patna.
 4. Sunil Kumar Son of Laxman Prasad Resident of Ashiana Digha Road, Raman Market Rajeev Nagar, District - Patna.
 5. Mritunjay Kumar Singh Son of Late Shiv Kumar Singh Resident of Flat No.- 201, Om Sai Villa Apartment Bahadurpur, Kankarbagh P.S.- Kankarbagh, District - Patna.
 6. Satish Chandra Son of Madan Lal Resident of House No.- 49 Gurudwara New Punjabi Colony, Chitkohra, Phulwari, Patna.
 7. Ravi Kumar Son of Binod Kumar Resident of House No.- 49, Near Gurudwara New Punjabi Colony, Chitkohra, Phulwari, Patna.
 8. Neelam K. Singh Son of Resident of Simari Niwas Road No.- 12, Rajendra Nagar, Patna.
 9. Amiya Ranjan Son of Suresh Prasad Resident of 101 1E New Patliputra Colony, Near Patna-Digha Railway Lane Patliputra, Patna.
 10. Ramesh Kumar Son of Ram Janaki Sharan Resident of Dr. Sen Bhawan, House No.- 41-42 Sadar Bazar Danapur, Patna.
 11. Parvin Kumar Son of Kisto Prasad Resident of 929 Super Market Ashok Raj Path Gurhatta, Patna City, Patna.
 12. Bijay Kumar Sinha Son of Gopal Prasad Sinha Resident of Ram Gopal Kunj, Rajendra Nagar Road No. 8-B, P.S.- Kadamkuan, District - Patna.
 13. Soumitra Kumar Ghose Son of Chitranjan Ghose Resident of 204 Shree Ganesh Apartment Kaviraman Path, Nageshwar Colony, Boring Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, Through Principal Secretary, Home Deptt. Government of Bihar, Old Secretariat, Patna, Bihar.
2. The Principal Secretary, Home Deptt. Government of Bihar, Patna.
3. The Director General of Police, Bihar.
4. The Senior Superintendent of Police, Patna. Bihar
5. The Deputy Superintendent of Police, Patna. Bihar



6. The Officer-In-Charge, Kotwali Police Station, Patna. Bihar
7. Manish Kumar Son of Late Mohan Prasad Resident of 3-D Sumbha Complex, West Boring Canal Road, Patna - 800001, The Director of Kraft Outdoor Media Private Limited having its registered Office at 5th Floor, Abhay Bhawan, Frazer Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rana Ishwar Chandra
For the Respondent/s : Mr.Sheo Shankar Prasad

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 25-02-2023 This criminal writ application has been filed for
following reliefs:-

(1.) to issue an appropriate writ,
order or direction in nature of Mandamus
commanding the respondents to unlock the
main entrance/door/Gate of shop premises of
petitioners established in Basement and
Ground floor of the Building constructed
upon the land bearing Municipal Survey No.
119, Holding No. 251, 247, 231, 212 (old)
and 212A(New) Cicle No. 6, Ward No. 2,
situated at Mauza-Maharrampur, Mohalla-
Frazer Road (South-East corner of Dak
Banglow Chauraha), PS-Kotwali, District-
Patna.

(2) to issue a further writ, order
or direction in the nature of Mandamus
commanding the Respondent no. 7 not to



interfere with shops of petitioners till final
decision of title suit No. 165 of 2018
(pending in the Court of Sub-Judge I, Patna
Civil Court.

It is the case of the petitioners that they were allotted their respective shops by Jaimangal (P) Ltd. and running their business under the shops in basement and ground floor of building known as 'Avanti' Hotel at Dak Bungalow, Patna under jurisdiction of this court. One Jagdish Prasad who was owner of MS Plot No. 119, Circle 6, Ward No. 02 Sheet 20 holding No. 146 PS No. 137 situated in Mohalla Frazer Road, Mauza-Moharrampur, PS-Kotwali, District-Patna leased out the property to Jaimangal (P) Ltd. and being Director constructed building upon the said land and shops carved out in basement and ground floor of the said building which were allotted to the petitioners on rent basis 35-40 years ago. petitioners being the bona fide tenant were paying a rent As per the lease agreement executed by the Director Jaimangal (P) Ltd.,. In the year, 1996 dispute arises between the Jaimangal (P) Ltd. and their creditors for recovery of dues consequently one major creditor BICICO intended to get physical possession of the said building including shops of petitioners. Petitioners approached this Hon'ble Court by filing CWJC No. 11170 of 1996 which was



disposed of by this Hon'ble Court vide its order dated 08.08.1997 with direction that the petitioners of said writ petition cannot be dispossessed except by recourse to law and cannot take forcible physical possession of the premises from those petitioners. Consequently petitioners are running their business. All of a sudden to the utter surprise of the petitioners on 25.02.2022 when they came to open their shops in Avanti Hotel complex now Harision Hotel complex got the entrance/main shutter of the gate locked with a changed lock and Guard looking after the said business premises was disappearing and 5-6 unknown persons watching the spot who did not allow the petitioners to stay outside their business premises/shops. Petitioners went to Kotwali police station to lodge FIR, but the police did not lodge any case and an application to initiate proceeding under Section 107 of the Criminal Procedure Code has been submitted by Kotwali Police before the Sub-Divisional Magistrate, Patna Sadar dated 26.02.2022 which was handed over to the petitioner. The action of the respondents are illegal, unconstitutional and arbitrary and have no other source of livelihood except which has been forcibly locked by respondent no. 7 namely, Manish Kumar son of late Mohan Prasad resident of 3-D Sumbha Complex, West



Boring Canal Road, Patna in connivance with respondent no. 6 without recourse and thus an illegal mode of eviction has been applied to evict the petitioners from the shops premises which may be quashed by this Hon'ble Court. He lastly submits that respondent no. 7 in connivance with the others have taken rule of law in hands and hence, interference of this court is required for the end of justice.

Counter affidavit has been filed on behalf of official respondents wherein in para 9, it is stated that in between the night of 24th and 25 February, 2022 at around 2.15 hours, with respect to the ownership of Hotel Harrison, there was dispute and one Manish Kumar put a lock on the hotel and in view of the law and order problem, both sides arrived at the Police Station and the officer on duty was given with the keys of the hotel. Later, it was informed that there is one person who is inside the hotel whereafter ASI Parmatama Dubey went to the hotel and brought the said man outside the hotel whereafter again lock was put whereafter Manish Kumar again arrived at the Police Station and took the keys of the hotel. As per the report, the then Station House Officer, namely, Sunil Kumar Singh has submitted his report that against both the sides, preventing proceeding under Section 107 of Cr.P.C was initiated



under Non-FIR Case No. 2 of 2022 of Kotwali Police Station and reports were submitted with respect to land dispute to Circle Officer, Sadar and Deputy Collector Land Reforms and later the Circle Officer issued a report on 9th March, 2022 (No. 1960). As per the report, the matter is purely civil dispute between the parties with respect to *Raiyati* land. The officials of Kotwali PS have no occasion to lock the door of the Harison Hotel (Cr.WJC No. 346 of 2022) and the police only intervened in the matter after receiving a FIR call and thereafter taken the preventive measure to maintain law and order.

Heard counsel for the parties and rival submission made on behalf of the parties.

An extraordinary jurisdiction of the High Court does not extend to dispute between private parties relating to property rights, unless the question of violation of some statutory duty by statutory authority is involved. When no such violation of the statutory duty of statutory authority is involved, a pure civil dispute for which a regular suit in a competent Civil Court is the only remedy cannot be adjudicated in the writ jurisdiction only by impleading some public authority and seeking directions against them. The constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law,



civil or criminal is available to a litigant because jurisdiction under Article 226 of the Constitution is special and extraordinary and should not be used.

Accordingly, this criminal writ petition is dismissed as not maintainable.

(Prabhat Kumar Singh, J)

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