

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13007 of 2022

Rathindra Nath Bagchi Son of Late Saurendra Nath Bagchi, resident of Mohalla- Kharmanchak, D.N. Singh Road, P.S. - Adampur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Police Department, Government of Bihar, Patna.
2. The Director General of Police, Police Department, Government of Bihar, Patna.
3. Deputy Inspector General of Police, Eastern Region, Bhagalpur.
4. Sr. Superintendent of Police, Bhagalpur.
5. Sri Rakesh Kumar, Jr. Statical Officer Cum-Magistrate, Bhagalpur.
6. Sri Ajay Kumar Ajnabi, S.H.O. Adampur Police Station, District- Bhagalpur.
7. Sri Ashok Kumar Choudhary, Nazir of Civil Court, Civil Court Campus, Bhagalpur.
8. Sri Saurabh Kumar Singh son of Sri Ashok Prasad, resident of Mohalla- Lalbagh, Tilkamanjhi, P.S.- Tilkamanjhi, District- Bhagalpur.
9. Smt. Bandana Sarkar wife of Dr. Sujit Kumar Sarkar, resident at Sri Aurobinda, P.S.-Jageha, District- Howrah (West Bengal).
10. Miss Ellora Bhattacharya Daughter of Pratha Nath Bhattacharya. at present residing at Falt No. - 7, Block-B 67/1, Kaklapur, 3rd Bye Lane, P.S.- Bantra, District- Howrah (West).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vivekanand Vivek, Advocate
For the Respondent/s	:	Mr. Ajay Kumar, Advocate
		Mr. Bipin Kumar, Advocate
For the State	:	Mr. Ruchikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 05-12-2023 Heard learned counsel for the petitioner; learned counsel for the State and learned counsel for the respondent nos. 8 to 10.

2. The present application has been filed for the following reliefs:



“(i) For issuance of an appropriate writ /writs /order /orders/direction/directions commanding the respondent to stop the further demolition of the ancestral house of the petitioner forthwith situated at Mohalla-Kharmanchak, D.N. Singh Road, P.S.-Adampur, District- Bhagalpur bearing Khata No. 294, Khesra No. 395, K, Kh, G and Gh. Arising out of Final decree dated 2.12.2019 and 2.1.2020 passed in Title Suit No. 456/2015 during the pendency of the application in which stay has been granted by the Hon’ble High Court vide order dated 31.3.2022 in F.A. No. 9/2021 but the respondents are still demolishing the house.

(ii) For issuance of appropriate writ/writs/order/orders direction/directions to pay the damages of Rs. 80 lakhs for causing dismantling of three storied building as well as ancestral house standing over the suit land and removal of articles from the house and shops in the garb of court’s order with the held of police officers and other officers.”

3. The admitted facts in the present case are that one Execution Case No. 1 of 2020 was filed for executing the decree passed in Title Partition Suit No. 456 of 2015 and pursuant to that delivery of possession was given to the respondent nos. 8 to 10 on 16.01.2022 in presence of the Magistrate and police force as per the direction of the Executing Court and thereafter, the respondent nos. 8 to 10 have demolished the part of the building which fell in their share, including the shops. Learned counsel for the petitioner has submitted that the respondent nos. 8 to 10 have demolished extra portion of the suit property which was not allotted to the respondent nos. 8 to 10 and they erected a



wall also.

4. Learned counsel for the respondent nos. 8 to 10 has submitted that the respondents have not demolished any extra portion which falls in the share of the petitioner who is the plaintiff and as such the present application has been filed with a *mala fide* intention.

5. I have considered the submissions of the parties. If the petitioner has any grievance with regard to the execution done under the orders of the Executing Court, the petitioner can raise the objection before the Executing Court or in the pending First Appeal. This Court in writ jurisdiction will not interfere in pending matters which can be agitated either before the Executing Court or in the First Appeal.

6. The petitioner is given liberty to agitate the matter before appropriate Court in accordance with law.

7. This application is disposed of.

(Sandeep Kumar, J)

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