

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1389 of 2021

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

SHREE RAM MANDAL S/o Late Tilak Mandal Resident of Village-
Vikrampur Balia, P.S. - Sakri, District - Madhubani, at present residing at Flat
No. 15, A- Block, Adalatganj, P.S. - Kotwali, District – Patna ... Petitioner
Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department of Home, Govt. of Bihar, Patna
3. The Additional Chief Secretary, Deptt. of Revenue and Land Reforms, Govt. of Bihar, Patna
4. The Director General of Police, Bihar, Patna
5. The Divisional Commissioner, Darbhanga Division, Darbhanga, Bihar
6. The District Magistrate, Madhubani, Bihar
7. The Superintendent of Police, Madhubani. Bihar
8. The Sub- Divisional Magistrate, Madhubani, Bihar
9. The Deputy Collector, Land Reforms, Sadar, Madhubani, Bihar
10. The Circle officer, Pandaul Circle, Madhubani. Bihar
11. The officer - In- Charge, Sakri Police Station, Madhubani, Bihar
12. Sri Pappu Kumar S/o Sri Laxmi Narayan Das Resident of Village -
Vikrampur Balia, P.S. - Sakri, District – Madhubani ... Respondents

Appearance :

For the Petitioner : Mr.Sunil Kumar Verma, Adv.
For the Respondents : Mr. Seo Shankar Prasad, SC VIII

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 05-04-2023 Heard learned counsel for the petitioner and the State.

The present application has been filed for the
following reliefs :

*(i) Issue writ/order/direction upon the Respondent
state authority/authorities for setting criminal law in
motion against the erstwhile Circle Officer, Pandaul
Anchal in the district of Madhubani, in addition to*



departmental proceeding, in view of malafide, prejudice, criminal conspiracy and collusion with private respondent no. 12 herein besides criminal breach of trust, by virtue of being a public authority, in so far as the land property standing in the name of the petitioner, by virtue of the registered sale deed dated 30.10.2010 covered under Khata No. 117 (old), New Khata No. 484, Survey Plot No. 1831 (Old), New Survey Plot No. 4566 measuring 4 Kathas and 6 dhur of land at Mauza-Vikrampur Balia, Thana No. 103, P.S. Sakri, Anchal Pandaul, District-Madhubani, rent thereof, being paid by the petitioner to the State of Bihar, vide Jamabandi No. 1401, having been arbitrarily and maliciously mutated in the name of Sri Pappu Kumar (Private Respondent no. 12 herein) vide Mutation Case No. 194/2018-19 and further creating/allowing Jamabandi No. 281 to survive against new survey plot no. 4566 arising out of Plot No. 1831 (Old) appertaining to Khata No. 117 in favour of Sri Pappu Kumar resulting in gross error of law and abuse of authority as also denial and deprivation of rightful possession of the subject land.



(ii) Issue writ/order/direction upon the appropriate state Respondent/Respondents for initiating criminal prosecution, besides departmental proceeding, against the erring, un-responsive arbitrary and collusive police personnel (erstwhile) inclusive of the Superintendent of Police, Madhubani and the Officer-in-Charge, Sakri P.S., Madhubani, on account of their blatant failure in the discharge of statutory duty/obligation cast upon them by sections 154 and 156 Cr.P.C. in terms of the constitution Bench Judgment rendered by the Hon'ble Supreme Court of India in the case of Lalita Kumari V/s Govt. of U.P. & Ors. reported in (2014) 2 SCC 1 taking into account submission of representations/applications on various dates by the petitioner upon the Superintendent of Police, Madhubani and the Officer-in-Charge, Sakri P.S., Madhubani, drawing attention towards the lawlessness and criminality by Private Respondent No. 12 in the matter of blatant grabbing of petitioner's land Covered under Khata No. 117, New Survey Plot No. 4566, old Survey Plot No. 1831 culminating into encroachment and



grabbing of the said land in the month of June 2021 at the hand of Sri Pappu Kumar, Private Respondent no. 12, in the event of no action or no FIR or no enquiry by the said police Authority/ies being in collusion with the design of Private Respondent no. 12.

(iii) Direct the concerned Respondent Authority/ies to institute First Information Report against Private Respondent No. 12, taking cognizance of the applications/complaints filed by the petitioner against Private Respondent no. 12 in connection with encroachment/grabbing of the petitioner's land covered under Khata No. 117, Survey Plot No. 1831 (Old), Survey Plot No. 4566 (New), relating to Thana No. 103 at Mauza-Vikrampur Balia measuring 4 Katha 6 Dhur.

(iv) Any other relief/reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.

Learned counsel for the petitioner submits that the petitioner has filed several petitions before the different authorities, but, police has not taken any action on his petition, which is Annexure 10 series.



Counter affidavit has been filed by the respondent-State through the Dy.S.P. (H.Q.), Madhubani. It has been categorically stated in paragraph 10 of the counter affidavit that action could not be taken on the application filed by the petitioner, which is Annexure 10 series, is only due to the reason that the said application was without signature of the petitioner. It has further been stated in paragraph 7 of the counter affidavit that the application filed by the petitioner's son for the same grievances has been entertained and the proceeding under Section 107 of the Criminal Procedure Code by virtue of filing non-FIR No. 12 of 2020 as well as filing of a first information report bearing Sakri P.S. Case No. 52 of 2020, dated 21.03.2020, lodged under Sections 341, 323, 379, 504, 506 and 427/34 of the Indian Penal Code has been made in which investigation has made and final report has also been submitted.

Counsel for the petitioner submits that from the contents of Annexure 10 series and the contents of the fardebayan on the basis of which first information report has been lodged are different, therefore, he submits that still police has not taken any action on his application.

After going through the pleadings and the arguments the stand taken by the Dy.S.P. (H.Q.), Madhubani, is correct that



without providing the signature and date on a petition the police has correctly not proceeded on those applications. So far as the petitioner is concerned, under law, the petitioner is free to move under the provisions of Section 156(3) of the Criminal Procedure Code before the Chief Judicial Magistrate for his grievances, if no action has been taken on the part of the police officials either at police station level or at the level of Superintendent of Police, as described in Section 154 of the Criminal Procedure Code.

In the present facts and circumstances of the case, the present application is **disposed off** directing the petitioner that he may seek remedy under Section 156(3) of the Criminal Procedure Code for filing of the first information report.

(Dr. Anshuman, J)

Shamshad/-

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