

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.293 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District- Samastipur

Vivekanand Choudhary son of Shiv Prasad Choudhary, resident of Village- Saidpur, Police Station- Chakmehsi, Post Office- Sadipur, Via- Pusa, District- Samastipur. Petitioner

Versus

1. The State of Bihar
2. The District Magistrate-cum- Collector, Samastipur.
3. The Superintendent of Police, Samastipur.
4. The Sub- Divisional Officer, Samastipur.
5. The Circle Officer, Kalyanpur, District- Samastipur.
6. The Officer-in- Charge, Chakmehsi Police Station, Chakmeshi, District- Samastipur.
7. Hari Paswan
8. Nawal Paswan
9. Suresh Paswan Sl. Nos. 7 to 9 sons of Late Mohit Paswan.
10. Raja Paswan son of Suresh Paswan
11. Baiju Paswan son of Late Paltan Paswan
12. Mithilesh Paswan son of Late Paltan Paswan
13. Rani daughter of Suresh Paswan
14. Name not known, son-in- law of Suresh Paswan
15. Mukesh Paswan, son of Late Palat Paswan
16. Manoj Paswan son of Late Palat Paswan
17. Mahesh Paswan son of late Shiv Chandra Paswan, All Sl.Nos. 7 to 16 residents of Village- Sahuri, Post Office- Saidpur, Via- Pusa, Police Station- Chakmehsi, District- Samastipur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Satya Narayan Mishra, Advocate
For the Respondent/s : Mr. Deepak Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-11-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner in the present case is seeking the following reliefs:-

“(i) For a direction to the respondent-District Magistrate and other official respondents to get the land of the petitioner pertaining to Mauja Sahuri, Khata No. 278, Plot No. 1112, Area 8 Kathas vacated from the private respondents who have trespassed upon the land of the petitioner.

(ii) For a further direction to the official respondents to ensure the protection of life and property of the petitioner and his family from the private respondents.

(iii) For any other relief/reliefs to which the petitioner may be deemed entitled for.”

3. Although the matter is listed under heading ‘For Office Notes’ and the office has pointed out that some of the respondents have been served through another respondent and one of the respondents has died, considering the nature of the reliefs prayed in this writ application, this Court called upon learned counsel for the petitioner to make a statement as to whether in the kind of reliefs prayed in the writ application, it would be appropriate for this Court to enter into the merit of the contentions?

4. Learned counsel for the petitioner, at this stage, submits that he has made a complaint with the Officer Incharge of Chakmehsi Kalyanpur Police Station with regard to the forceful dispossession of the petitioner from the land in question and unauthorised occupation of the same by the respondents but despite such information having been given to the Officer Incharge of the Police Station, no action has been taken so far.

5. It appears from the counter affidavit filed on behalf of the respondent nos. 3 to 6 that a proceeding under Sections 107 and 144 Cr.P.C. had been initiated for maintaining peace between the parties.

6. Learned counsel submits that in the facts of the present case, he would be satisfied if an appropriate direction is issued to the concerned police officer to conduct a proper investigation of the case being Chakmehsi P.S. Case No. 158 of 2020 filed against Hari Paswan, Nawal Paswan and others under Sections 341, 406, 420, 506, 504, 323 and 34 of the Indian Penal Code.

7. On record, there is also a counter affidavit of one Manoj Paswan (respondent no. 16) who has stated that he had nothing to do with the land in question and has vacated the land. He has also submitted that there is no claim whatsoever over the land in question.

8. In the given facts and circumstances, taking note of the above submissions of learned counsel for the petitioner, this Court is disposing of the present writ application with a direction to the Superintendent of Police, Samastipur to look into the grievance of the petitioner, ensure that the case lodged by him is duly investigated and a police report is submitted in the learned jurisdictional court within a reasonable period. If the I.O. of the case is not working and has not taken interest in concluding the investigation so far, he would be changed and competent I.O. shall be deputed for this purpose.

9. It is left open for the petitioner to seek any other

remedy which may be advised to him in connection with the present dispute before competent authority.

10. If the petitioner applies for appropriate remedy before the competent court/forum, the same will be considered on its own merit in accordance with law.

11. For sake of clarity, it is recorded that this Court has not gone into the merit of the contentions and it will be open for the competent court/authority/forum to examine the same and take an appropriate view of the matter.

12. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

U		T	
---	--	---	--