

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9072 of 2018

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Nand Kishore Sharma Son of Late Mahadeo Mistry, Resident of Village-
Kasmabad Raghapur, P.S.- Nathnagar, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate cum Collector, Bhagalpur.
3. The Senior Superintendent of Police, Bhagalpur.
4. The Officer in Charge, Nathnagar Police Station, District- Bhagalpur.
5. Geeta Devi, Wife of Sri Bijay Kumar Paswan, Resident of Village-
Raghapur, P.S.- Nathagar, District- Bhagalpur.
6. Bishnudeo Sharma, Son of Late Bhagwan Mistry, Resident of Village-
Raghapur, P.S.- Nathagar, District- Bhagalpur.
7. Ramdeo Sharma, Son of Late Bhagwan Mistry, Resident of Village-
Raghapur, P.S.- Nathagar, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhirendra Nath Jha
For the Respondent/s : Mr.Sajid Salim Khan -Sc25

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 22-10-2024 In the instant petition, petitioner has prayed for the
following relief(s):-

*(i) For issuance of writ in
the nature of certiorari to quash the
order dated 16.04.2017 passed by the
Sarpanch, Gram Kachahari,
Raghapur in Gram Kachahari Case
No 01/2017 filed by Gita Devi and
ors wrongly held that claim of the
petitioner is not true in contradiction
of his own order already passed on
30.9.2012 in Case No 02/2012 in
favour of the petitioner.*

(ii) For issuance of writ in



the nature of mandamus directing and commanding the respondents to make left over partly delivery of possession as already order has been passed by learned Munsif 2nd, Bhagalpur in Execution Case No 01/2013.

(iii) And/or pass such other order or orders as deem fit and proper in the interest of justice.

2. Learned counsel for the petitioner has challenged the order passed by Sarpanch, Gram Kachahri, Raghapur.

3. Learned counsel for the State submits that he has filed counter affidavit and in Para 8 it has been mentioned that one of the private respondent namely Harish Chandra Mandal and others has filed Title Suit No. 65/2016 against petitioner and others which is sub-judice in competent Court.

4. In the view of aforesaid facts and circumstances, as submitted by the learned counsel for the State that with respect to the land in question, a Title Suit is pending before the competent Court, it is well settled that once a title suit is pending with regard to the land, no Court has jurisdiction to adjudicate the matter. In this context, the decision of the Hon'ble Supreme Court in the case of ***Sohan Lal Vs. Union of Indian & Anr.*** reported in ***AIR 1957 SC 529*** and in the case of ***Radhey Shyam & Anr. Vs. Chhabi Nath and Ors***, reported in ***(2015) SCC 423*** are quite relevant.



5. In the case of **Sohan Lal (supra)**, Hon'ble Supreme Court has observed as under :

“We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. These are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Art. 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.”

6. In the case of **Radhey Shyam (supra)**, Hon'ble Supreme Court in paragraphs 64 and 65 has observed as under :



“64. However, this Court unfortunately discerns that of late there is growing trend amongst several High Courts to entertain writ petition in cases of pure property disputes. Disputes relating to partition suits, matters relating to execution of a decree, in case of dispute between landlord and tenant and also in a case of money decree and in various other cases where disputed question of property are involved, writ courts are entertaining such disputes. In some cases the High Courts, in a routine manner, entertain petitions under Article 227 over such disputes and such petitions are treated as writ petitions.

65. We would like to make it clear that in view of the law referred to above in cases of property rights and in disputes between private individuals writ court should not interfere unless there is any infraction of statute or it can be shown that a private individual is acting in collusion with a statutory authority.”

7. In the light of the discussion made above, the said aspect cannot be decided in writ jurisdiction and the appropriate remedy, in the facts and circumstances of the case, is before the Civil Court. Petitioner has not made out a case. Accordingly, the



present writ petition is disposed of as not maintainable.

(Alok Kumar Pandey, J)

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