

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.713 of 2019

In
Civil Writ Jurisdiction Case No.5963 of 2019

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Ram Bahadur Sah S/o Late Shiv Prasad Sah, R/o Village Piprahi, PO
Pakawaliya, PS Baraharia, District Siwan.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary home department,
government of Bihar new Secretariat Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. The Circle Officer Baraharia, District- Siwan.
5. The Officer in Charge of Barahari Police Station, District Siwan.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Chandra Kant, Advocate Mr. Navin Kumar, Advocate
For the Respondent/s	:	Mr.Prabhat Kumar Verma (AAG-3) Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-08-2024

The writ petition was filed seeking reasons for demolition of the petitioner's house and damages to the tune of Rs. 50, 00,000/- for such demolition. The learned Single Judge, after noticing the fact that there was a title suit filed bearing T.S. No. 01 of 2017 for declaration of title; wherein there was no interim orders passed, observed that since the proceedings, which led to the demolition was one in which the petitioner was also included and the order was passed as early as on



14.03.2018, which was not challenged by the petitioner, there can be no invocation of the extraordinary remedy under Article 226 of the Constitution of India. The learned Single Judge also imposed a cost of Rs.20,000/- for the frivolous and fictitious litigation filed.

2. In the appeal, learned Counsel for the appellant (petitioner in the writ petition) points out that there is no order issued for demolition of the house. It is also submitted that as per the judgment of this Court in CWJC No. 19494 of 2018, titled as ***Ramowtar Lakhotia vs. The State of Bihar & Ors.***, the power of the Collector to hand over possession on cancellation of mutation has been rendered negatory. In the above circumstance, petitioner is entitled to be shown the order by which the demolition was carried out, though the order dated 14.03.2018 has not been challenged.

3. Admittedly, the appellant was in possession of the subject property and had to construct a building therein. One Lalchand Pandit filed a Misc. Case No. 59/2015-16 before the Additional Collector, Siwan raising a claim on the disputed land, which was asserted to have been settled by the State Government in his favour, in a proceeding under the Bihar Privileged Persons Homestead Tenancy Act, 1948 in the year 1989-90. The



appellant was a party in the said proceeding and the Additional Collector, Siwan held that the land in question was settled with Lalchand Pandit and directed the Circle Officer, Baraharia to ensure that the grievance of wrongful dispossession is resolved. The order was dated 14.03.2018 and admittedly no appeal was taken from the order by the petitioner, who was a party in the proceeding.

4. During the pendency of the proceedings, a Title Suit No. 1 of 2017 was filed in which the appellant had claimed declaration of his title and asserting his possession over the disputed land. The appellant obviously did not implead Lalchand Pandit in the above case nor did he seek for an interim injunction from dispossession of the land, as per order dated 14.03.2018. At the risk of repetition, it has to be stated that the order dated 14.03.2018 was never challenged. We find absolutely no reason to entertain the appeal, especially when the appellant has been dispossessed and the property has been handed over to Lalchand Pandit who is also not a party in the writ petition.

5. As far as the cited judgment is concerned, it held that the further action regarding dispossession cannot be proceeded with by the Collector. However, the proceeding has already reached finality and the possession is now with a third



party i.e. Lalchand Pandit who also has a favourable order of the Additional Collector, Siwan in Misc. Case No. 59/2015-16.

6. In the above circumstances, even if the appellant has a claim for title, the appellant has to necessarily agitate the cause in the suit filed and even seek for amendment of the reliefs for recovery of possession and seek further remedy for damages against the State for demolition of his building; if so desired.

7. We find no reason to invoke the extra ordinary remedy under Article 226 of the Constitution of India and we affirm the order of the learned Single Judge, but only to the extent of the findings on merit. With respect to the order on cost, we are of the opinion that it was not required. The order of cost would stand set aside.

8. The appeal stands allowed partly.

9. Interlocutory application, if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
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