

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1177 of 2023

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

Babban Kumar son of Late Ram Narayan Singh Village- Aiman Bigha PS-
Shahjahanpur PO- Kanchanpur Dist- Patna At Present- Ram Janam Enclave
Morabadi Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Govt. of Bihar
2. The Director General of Police, Bihar
3. The District Magistrate Bihar
4. The Senior Superintendent of Police, Bihar
5. The Superintendent of Police, Rural Bihar
6. The Sub Divisional magistrate, Patna City Bihar
7. The Circle Officer, Daniyawan Bihar
8. The SHO Shahjahanpur Bihar
9. Bachchi Devi wife of Raj Kishore Prasad Village- Aiman Bigha PS-
Shahjahanpur Dist- Patna
10. Raj Kishore Prasad son of Late Barhu ram Village- Aiman Bigha PS-
Shahjahanpur Dist- Patna
11. Amar Kant @ Kamal Kant son of Raj Kishore Prasad Village- Aiman Bigha
PS- Shahjahanpur Dist- Patna
12. Munchun son of Raj Kishore Prasad Village- Aiman Bigha PS-
Shahjahanpur Dist- Patna
13. Indrajeet Kumar son of Raj Kishore Prasad Village- Aiman Bigha PS-
Shahjahanpur Dist- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Singh, Adv.
For the State : Mr. Suman Kumar Jha, (AC to AAG-3)
Mr. Mankeshwar Tiwari, (AC to AAG-3)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 23-02-2024 The instant writ petition alleges police inaction in

respect of protection of property and life of the petitioner. The

petitioner claims himself to be the owner of half share of plot

no. 19 measuring about 39.50 decimals, plot no. 28 having an

area of about 25.50 decimals and plot no. 29 having area of about 9 decimals. According to the petitioner, the said land was partitioned and the petitioner got half share of the land by virtue of the said partition between him and his co-sharer. His full brother sold out his share to respondent no. 9. After partition, the petitioner made an application before the jurisdictional Circle Officer for measurement of his share. Measurement was done by the *Anchal Amin* on 14.12.2022 and the land of the petitioner was demarcated. However, the private respondents disturbed with the possession of the land of the petitioner, traced passed into the land, committed mischief by uprooting the piling work undertaken by the petitioner and threatened him with dire consequence. It is contended on behalf of the petitioner that he made a complaint before the jurisdictional S.H.O. on 20.06.2023 followed by another application on 22.06.2023 but the S.H.O., Shahjahanpur P.S. did not lodge any F.I.R. against the private respondents. The petitioner had also filed applications on 25.09.2023, 20.06.2023 and 02.06.2023 but the S.H.O. did not register any case on the basis of the written information about commission of cognizable offence against the private respondents, therefore, the instant writ petition has been filed.

2. It is specifically directed in ***Lalita Kumari Vs. Government of Uttar Pradesh & Ors.*** reported in ***(2014) 2 SCC 1*** that if an Officer In-Charge of Police Station refuses to register a case, where commission of cognizable offence is disclosed under Section 154(1) of the Cr.P.C., under sub-section (3) of Section 154 of the Cr.P.C., any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him. If the Superintendent of Police fails to take any action, remedy of the complainant lies in filing an application supported by an affidavit under Section 156(3) of the Cr.P.C. before the concerned learned Chief Judicial Magistrate or learned Additional Chief Judicial Magistrate requesting him to send the said complaint to the local police station to treat the same as F.I.R. and to start a specific case against the accused persons. In that event, if the Magistrate thinks fit, he can send the application to the concerned police station directing the

S.H.O. to register the specific case against the accused persons.

3. In view of such remedy having been provided in the Code of Criminal Procedure, the petitioner will have to take records of the said provision. The petitioner directly cannot come in the extraordinary jurisdiction under Article 226 of the Constitution of India.

4. For the reasons stated above, I do not find any merit in the instant writ petition, accordingly the instant writ petition is dismissed.

5. However, the petitioner is at liberty to act in accordance with the direction of the Hon'ble Supreme Court laid down in the case of *Lalita Kumari Vs. Government of Uttar Pradesh & Ors. (supra)*.

(Bibek Chaudhuri, J.)

sadique/-

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