

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16562 of 2024

Vijay Prasad Son of Late Bhagwan Ray Resident of Village - Kanhauli, P.S. -
Bihta District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, Bihar.
2. The District magistrate - cum- Collector, Patna.
3. The D.C.L.R. Danapur, Patna.
4. The Sub- Divisional Officer, Danapur, Patna.
5. The Circle Officer, Circle - Bihta, District- Patna.
6. The Sub Registrar, Sub Registry Office, Bihta, Patna.
7. Santram Yadav, Son of Dwarika Yadav, Resident of Village - Mitani Chak,
P.S. - Naubatpur, District- Patna.
8. Raj Kumar Yadav, Mother of Hiramani Devi, Son of Late Devnandan
Prasad, Resident of Village - Usari Khurd, Kothiya Danapur, P.S. - Danapur,
District- Patna.
9. Ajay Kumar Mother of Hiramani Devi, Son of Late Devnandan Prasad,
Resident of Village - Usari Khurd, Kothiya Danapur, P.S., - Danapur,
District- Patna.
10. Shailendra Kumar, Son of Late Krishnandan Singh, Resident of Village -
Bishnupura, P.S. - Bihta, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar
For the Respondent/s : Mr.Addl. Advocate General 13

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 28-10-2024 In the instant petition, petitioner has prayed for the
following relief(s):-

*“For issuance of a writ in the
nature of mandamus directing to
respondents to cancel the sale deed
bearing Deed no.- 4368 dated-21.06.2024
which was executed to do forgery by*



respondent no.- 7 (Santram Yadav) and mother (Smt. Hiramani Devi) of respondent no.- 8 (Raj Kumar Yadav) and respondent no.-9 (Ajay Kumar) in favour of respondent no.- 10 (Shailendra Kumar) of the Land of the petitioner situated in Mauza - Kanhauli, Circle - Bihta, District - Patna, bearing Khata no.- 369, Plot no.- 916, Area- 19 1/3 decimal, Thana no.-69, Jamabandi no.108 and further pray to not do mutation of the said land which was purchased by the respondent no.- 10 through sale deed no.- 4368 dated 21.06.2024 and further pray to pass such other order/orders.”

2. From the perusal of prayer portion of writ petition, it is evident that the sole thrust of petitioner is to cancel the sale deed bearing Deed No. 4368 dated 21.06.2024 which was executed by Respondent Nos. 7 and 8.

3. 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.

4. 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.”

5. 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.”

6. In the light of the discussion made above, disputed aspect cannot be decided in writ jurisdiction. Accordingly, the present writ petition stands disposed of as not maintainable.

7. However, dismissal of writ would not be hurdle for the petitioner to approach appropriate authority/forum for redressal of his grievance within a period of four weeks from



the date of receipt of this order.

(Alok Kumar Pandey, J)

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