

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6166 of 2025

=====

Ram Vinay Mahto Son of Prabhu Mahto, Resident of Village- Singhia Buzurg
South, Ward No.12, P.O- Singhia Ghat, P.S- Bibhutipur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Patna, Bihar.
2. District Magistrate, Samastipur.
3. Superintendent of Police, Samastipur.
4. Sub-Divisional Magistrate, Rosera, Samastipur.
5. Sub-Divisional Police Officer, Rosera, Samastipur.
6. Circle Officer, Bibhutipur, Samastipur.
7. Revenue Officer, Bibhutipur, Samastipur.
8. Officer-in-Charge, Bibhutipur Police Station, Samastipur.
9. Manoj Banka Son of Indra Kumar Banka, Resident of Bahadurpur, P.S- Samastipur Town, District- Samastipur.
10. Lalita Banka Wife of Amit Kumar Banka, Resident of Bahadurpur, P.S- Samastipur Town, District- Samastipur.
11. Manish Kumar Banka Son of Indra Kumar Banka, Resident of Bahadurpur, P.S- Samastipur Town, District- Samastipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Sita Ram Yadav, GP-16
		Mr. Jutendra Kumar, AC to GP-16

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 28-04-2025

In the instant petition, petitioner seeks following
relief :-

*(a) For issuance of writ in the
nature of mandamus directing the
respondents to restrain the Respondent
no.9 to 11 from constructing the house
forcibly on the purchased and Khatiyani*



land of the petitioner at Mauja- Singhia Buzurg, Thana no.04, P.S.-Bibhutipur, District-Samastipur.

(b) For issuance of writ in the nature of mandamus directing the respondents to maintain peace and status-quo over the land in question.

(c) For issuance of any other appropriate writ, order or direction which your Lordships may deem fit and proper in the facts and circumstances of the case.

2. Learned counsel for the petitioner submits that the land appertaining to Khata No. 205 (old), Khesra No. 4765 (old), Khesra No. 4765, Area – 4 decimal and Khatiyani Land Khata No. 157 (old), Khesra No. 4786 (old) Area – 1 Katha 10 dhur belongs to the petitioner. He further submits that petitioner and one Dinesh Sahni purchased the total land 1 katha 16 dhur 10 kanma i.e. 8 decimal land from Manoj Kumar and Rishikesh Kumar Sinha vide Registered sale deed No. 861 dated 20.01.2025 out of which the petitioners purchased the 18 dhur i.e. 4 decimal land vide aforesaid sale deed. He further submits that Partition Suit No. 202/1970 is pending over his aforesaid khatiyani land and Title Suit No. 62 of 2020 is also pending over his aforesaid purchased land in question before the Court of Civil Judge, Senior Divison, Ist, Rosera. He further submits



that during the pendency of the suit over the said land in question, some anti social elements dispossessed the petitioner from the said land in question and they had started constructing house over the land in question.

3. Learned counsel for the State submits that the concerned official will look into the matter as title suit as well as partition suit is pending over the land in question.

4. In the view of aforesaid facts and circumstances, it is admitted position that a title suit is pending between the parties before the competent Court and where disputed aspect in involved writ petition is not maintainable.

5. The Hon'ble Supreme Court in catena of judgments has held that regular suit is appropriate remedy for settlement of dispute relating to property rights between private persons. The remedy under Article 226 of the Constitution shall not be available except where there is violation of some statutory duty on the part of statutory authority is alleged. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. The jurisdiction under Article 226 of the Constitution being special and extra-ordinary should not be exercised casually or lightly on mere asking by



the litigant. In this context, the decision of the Hon'ble Supreme Court in the case of ***Sohan Lal Vs. Union of India & 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.

6. 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.”

7. 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.”

5. Having considered the facts and circumstances of the case and the arguments advanced on behalf of the parties, the present writ petition is disposed of with liberty to the petitioner to represent his grievance before the appropriate forum within a period of four weeks from the date of receipt of this order. If petitioner represents his grievance within the stipulated period, the competent authority shall pass appropriate order in accordance with law, expeditiously.

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.04.2025.
Transmission Date	N/A

