

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.959 of 2024

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

Kanti Devi Wife of Late Hari Shankar Singh R/o - Vill- Jahangirpur, Patedha,
P.S- Sarai, Dist - Vaishali

... .. Petitioner/s

Versus

1. The state of Bihar through the Additional Chief Secretary, Home Department , Government of Bihar Patna
2. The District Magistrate, Vaishali at Hajipur
3. The Sub- Divisional Officer , Vaishali at Hajipur
4. The Inspector General of Police, Bihar, Patna
5. The Deputy Inspector General of Police , Tirhut Range, Muzaffarpur
6. The Superintendent of Police, Vaishali at Hajipur
7. the Officer- in- charge, Sarai Police Station, District Vaishali
8. Amresh Kumar Son of Late Hari Shankar Singh R/o - Vill- Jahangirpur, Patedha, P.S- Sarai , Dist- Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kishore Thakur, Adv.
For the State	:	Mr. Kameshwar Kumar, GP-17
For respondent no. 8	:	Mr. Rajesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 30-01-2025 This is an application under Article 226 of the Constitution of India filed by the petitioner against the jurisdictional Police Authority and private respondent no. 8, with a prayer to direct the State Respondents, so that private respondent no. 8 cannot forcibly evict the petitioner from her house and her life and property may be protected in accordance with law.

2. It is submitted by the learned Advocate for the



petitioner that originally the father-in-law of the present petitioner namely Jagdish Singh (since deceased), was the owner of the house property with appertaining land in Plot No. 298, under Khata No. 48, measuring an area about 10 decimals in village Jahangirpur Patedha, P.S.-Lalganj, District- Vaishali.

3. After death of Jagdish Singh, property was inherited by his three sons. The petitioner was the wife of one of the sons of Jagdish Singh namely, Hari Shankar Singh (since deceased). After the death of Hari Shankar Singh, the petitioner along with his two sons namely Ravi Shankar Singh and Amresh Kumar inherited undivided $3 \frac{1}{4}$ decimal of land in the disputed property.

4. It is the case of the petitioner that respondent no. 8 has been trying to grab the property by evicting the petitioner. He is also disturbing the possession of the petitioner in respect of the said property by refusing her to use the Bathroom and Toilet of the said house and other parts of the property.

5. On the other hand, respondent no. 8 has denied all such allegations made out against him by his mother.

6. It is contended on behalf of respondent no. 8 that the petitioner has got grant under Indira Awas Yojana, and she has constructed a house on the plot, allotted by the Government,



and has been residing there. The petitioner has transferred her share to her elder son namely Ravi Shankar Singh. Therefore, dispute cropped up between the petitioner and respondent no. 8.

7. It is further submitted on behalf of the petitioner that the petitioner previously filed a proceeding under Section 144 of the Cr.P.C. before the jurisdictional Sub-Divisional Officer and the said proceeding was registered as Misc. Case No. 288 of 2023. The Sub Divisional Officer passed an order on 20th January, 2024, restraining the respondent no. 8, from disturbing peaceful possession of the petitioner in her occupied portion in the house.

8. This Court, on perusal of the nature of dispute between the parties, finds that the dispute is essentially civil in nature. If there is any trouble in the family in respect of joint family property, only course open is to file a suit for partition against the co-sharer. It is not in dispute that respondent no. 8 is a co-sharer along with the petitioner and his brother namely Ravi Shankar Singh, in respect of the disputed property. Thus, the efficacious relief of the parties lies in the suit for partition, when the parties are not in a position to stay jointly in the house.

9. At the same time, this Court is not unmindful to note that petitioner being a co-sharer in respect of the disputed



property, cannot be evicted without the procedure established by law. If the son (respondent no. 8), evicts his mother by the show of muscle power, the petitioner is entitled to get Police protection by the Competent Authority.

10. According to the statutory provision, Police protection can be given by the Executive Magistrate in case of nuisance and breach of peace.

11. Under such circumstances, the instant writ petition is disposed of permitting the petitioner to take recourse of Section 144 of the Cr.P.C. once again against respondent no. 8, if she is anywhere disturbed in peaceful enjoyment of his part of property.

12. With the above direction, the instant criminal writ petition is disposed of on contest.

(Bibek Chaudhuri, J)

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