

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1469 of 2023

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

Madan Mohan, son of Late Thakur Rana Pratap Singh, Village- Nijhma Ps-
Mahua Dist- Vaishali At Present- Matiara Ps- Sarai Dist- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Police, Bihar, Patna Bihar
2. The Principal Secretary, Home Police Department, Govt. of Bihar Patna Bihar
3. The Director General of Police, Bihar, Patna Bihar
4. The District Magistrate, Vaishali Bihar
5. the Superintendent of Police, Vaishali Bihar
6. The Sub Divisional Police Officer, Hajipur Vaishali Bihar
7. The Station Head Officer, Hajipur Town, Vaishali Bihar
8. Chandrashekhar Prasad son of Late Daroga Prasad Village- Malikpur Pipra @ Panapur Po- Saraj Ps- Sadar Hajipur Dist- Vaishali At present- Chakanwar @ Anwarpur Po- Hajipur Ps- Hajipur town, Dist- Vaishali
9. Nand Kishore Prasad Singh son of Late Daroga Prasad Singh Village- Malikpur Pipra @ Panapur Po- Saraj Ps- Sadar Hajipur Dist- Vaishali At present- Chakanwar @ Anwarpur Po- Hajipur Ps- Hajipur town, Dist- Vaishali
10. Madan Mohan Prasad Singh son of Late Daroga Prasad Singh Village- Malikpur Pipra @ Panapur Po- Saraj Ps- Sadar Hajipur Dist- Vaishali At present- Chakanwar @ Anwarpur Po- Hajipur Ps- Hajipur town, Dist- Vaishali
11. Ranjeet Kumar son of Late Chandeshwar Prasad Singh Village- Malikpur Pipra @ Panapur Po- Saraj Ps- Sadar Hajipur Dist- Vaishali At present- Chakanwar @ Anwarpur Po- Hajipur Ps- Hajipur town, Dist- Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prashant Kashyap, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, Advocate
		Mr. Iqbal Asif Niazi, AC to G.P.-5

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 08-01-2025 1. The petitioner has approached this Court under

Article 226 of the Constitution of India for the following reliefs:



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(i) For issuance of appropriate writ(s) thereby directing the official respondent nos. 2 to 7 to ensure delivery of possession to the petitioner a decree holder of T.S.No.91/1954/43/1956, of his land bearing Khata no. 99 and 56, Plot no.172 and 174, Area- 2 kathas and 15 dhurs situated in Mohalla- Anwarpur, Cinema Road, P.S.- Hajipur Town, Distt. Vaishali as the same has been decreed in his favour and affirmed up to the Hon'ble High Court, Patna in S.A. no. 924/1961 followed by delivery of possession on 29.04.2000 in Execution Case no. 22/1971 to the petitioner's grandfather but subsequently dispossessed by the respondent no. 8 to 11 on 02.10.2004 as the same has been encroached upon by the Respondent nos 8 to 11 by dispossessing the Petitioner forcefully.

(ii) For a declaration that the petitioner is entitled to have his peaceful possession over the decreed land without any interference by the illegal activities of criminal trespassing of the respondent no. 8 to 11.

(iii) For further direction upon the respondents to pay the petitioner reasonable damage and costs for being kept deprived of his legitimate right to property as enshrined under Art. 300-A of the Constitution of India.



*(iv) For grant of any other relief (s)
which the petitioner may be entitled to in the
facts and circumstances of the case.*

2. It is alleged by the petitioner that he is the decree-holder of Title Suit No. 91 of 1954, renumbered as Title Suit No. 43 of 1956, which was affirmed up to the Hon'ble High Court of Judicature at Patna in S.A. No. 924 of 1961. After the said decree reached finality, the decree-holder filed Execution Case No. 22 of 1971 and got possession of Plot Nos. 172 and 174, Khata Nos. 99 and 56, measuring an area of 2 Katha, 15 dhurs, situated in Mohalla – Anwarpur Cinema Road, P.S. - Hajipur Town, District – Vaishali. The petitioner got possession of the decreetal property on 29th of April, 2000 and the execution case was disposed of on full satisfaction

3. Subsequently, the predecessors-in-interest of the private respondents filed Title Suit No. 164 of 1995, impleading petitioner's father and his brothers and other family members as defendants. During the pendency of the said suit, the petitioner and his family members were dispossessed from the property in question on 2nd of October, 2004. The father of the petitioner lodged F.I.R. against Respondent Nos. 8 to 11 on the basis of which, Hajipur Town P. S. Case No. 510 of 2004, dated 2nd of October, 2004, under Sections 147, 148, 448 and 379 of the



Indian Penal Code was registered. The said case was finally registered as G.R. Case No. 3067 of 2004 in the Court of learned Additional Chief Judicial Magistrate, IV, Vaishali at Hajipur and the accused persons / private Respondents were convicted by the Trial Court.

4. In order to restore possession, the father of the petitioner filed a writ petition before this Court, which was registered as C.W.J.C. No. 13757 of 2004. The said writ petition was dismissed by a Co-ordinate Bench of this Court on 24th of April, 2005, with liberty to approach the competent authority for restoration of possession. Against the judgement passed by the Writ Court, the petitioner preferred an appeal before the Division Bench of this Court. However, the said appeal being L.P.A. No. 500 of 2005 was also dismissed.

5. In the meantime, title suit filed by the predecessors-in-interest of the private respondents being Title Suit No. 164 of 1995 was dismissed by the Trial Court. The Respondent Nos. 8 to 11 filed Title Suit No. 89 of 2014, which was, however, allowed and the case was remanded back to the Trial Court for fresh disposal. Against the order of remand, the petitioner preferred Miscellaneous Appeal No. 298 of 2023 before this Court and the said appeal is still pending. The petitioner also



preferred C.W.J.C. No. 2025 of 2015 praying for restoration of possession of the land in question after dismissal of Title Suit No. 164 of 1995. The said writ petition was disposed of by a Co-ordinate Bench of this Court with liberty to avail alternative remedy as otherwise available to the petitioner under the law.

6. It is contended on behalf of the petitioner that the ownership of the petitioner in respect of the said land has already been established in Title Suit No. 91 of 1954. For execution of the decree he got possession of the land. Subsequently, his father and family members were illegally dispossessed by the private respondents. Under such circumstances, necessary direction may be issued to the Appellate Authority for restoration of possession of the property in question.

7. Having heard the learned Advocate for the petitioner, this Court is of the view that the instant writ petition is absolutely misconceived. If a person is illegally dispossessed from his land, proper remedy for restoration of possession is available in Section 144 of the Code of Civil Procedure. The petitioner, being the owner of the decretal property, in execution of decree, could have filed application under Section 6 of the Specific Relief Act for recovery of possession against



the respondents. Alternatively, in the Title Suit filed by the respondents, the petitioner as defendants could have established his claim and recover possession of the property in question.

8. The Writ Court cannot grant any remedy, directing the Appellate Authority to dispossess the private respondents and to deliver the possession of the property in question in favour of the petitioner.

9. For the reasons stated above, the instant writ petition is dismissed, on contest.

(Bibek Chaudhuri, J)

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