

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73389 of 2023

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

-
1. Naresh Sahni, Son of Late Metho Sahni @ Mato Sahni;
 2. Indu Devi, Wife of Naresh Sahni;
- Both are resident of Village - Kachhari Road, Ward No. 25, P.S. - Chitragupta Nagar, District - Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rita Devi, Wife of Late Manikant Prasad, resident of Village - Baisha, P.O. + P.S. - Maraiya, District - Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arghesh Kumar, Advocate
For the O.P. No. 2	:	Mr. Sanjay Kumar Ghosarvey, Advocate
For the State	:	Mr. Mohammad Sufyan, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY

C.A.V. JUDGMENT

Date : 29-08-2025

Heard Mr. Arghesh Kumar, the learned
counsel for the petitioners and Mr. Sanjay Kumar
Ghosarvey, the learned counsel for the opposite party No.

2. The State has been represented by Mr. Mohammad
Sufyan, the learned Addl. Public Prosecutor for the State.

2. The present application has been filed on
behalf of the petitioners against the order dated 13-09-
2023 passed by the learned Sessions Judge, Khagaria in



Cr. Revision No. 52 of 2023, whereby the learned Sessions Judge has been pleased to dismiss the revision application filed by the petitioners, wherein the order dated 18-04-2023 passed by the learned Sub-Divisional Magistrate, Khagaria (*in short the "SDM, Khagaria"*) in Misc. Case No. 3(M) of 2023 was challenged.

3. The brief facts giving rise to the present application is to the effect that the petitioners have stated that the land in question was their ancestral property and they were coming in peaceful possession over the same since 1914 and after consecutive generations, presently they are residing there and a tea stall is running over the same. It is further stated that the petitioners are coming in peaceful possession over the disputed land since long. However, all of a sudden, without the knowledge of the petitioners, the opposite party No. 2 got a sale-deed executed in her favour through a stranger, stated to have been executed some time in the year 1987. It is further alleged that the opposite party No. 2, in collusion with the



Revenue Authorities, even got the land in question mutated in her name and the land receipts were issued and *Jamabandi* was also created in her name.

4. The learned counsel appearing on behalf of the petitioners has submitted that they being the illiterate persons were not aware of such entries in the Revenue records. It has further been alleged that almost after three decades of the said purchase, the opposite party No. 2 filed an application before the SDM, Khagaria upon which, a miscellaneous case, bearing Case No. 3(M) of 2023, was initiated and notices were issued to the petitioners. Thereafter, another notice was issued and served upon the petitioners on 02-05-2023 by which it was ordered by the learned SDM, Khagaria to the petitioners to vacate the place/house in question, without any speaking order. The petitioners have also alleged that even with the notice, there was no order attached and as such, being aggrieved by the order dated 18-04-2023 as well as the notice dated 02-05-2023, the



petitioners preferred Criminal Revision No. 52 of 2023 before the learned Sessions Judge, Khagaria.

5. It has been contended on behalf of the petitioners that they were illiterate persons and had no knowledge of the documents. However, the learned Revisional Court, on the ground that the petitioners could not produce any document in order to support their case, dismissed the revision application.

6. It has been submitted on behalf of the petitioners that both the orders impugned in the present application, viz., 18-04-2023 and 13-09-2023, referred to above, have been passed without appreciating the fact that the petitioners are in peaceful possession over the disputed land for a very longtime since 1914 and that itself has created rightful title of the petitioners over the said land. It has also been submitted that the opposite party No. 2 had approached the authorities concerned after more than three decades which itself goes on to show that over the said disputed land, there is a long



possession of the petitioners and, therefore, the same should not be disturbed in a quasi-judicial proceeding.

7. The learned counsel for the petitioners has thus submitted that the impugned orders, referred to above, are fit to be set aside.

8. *Per contra*, the learned counsel for the opposite party No. 2 has submitted, in reference to the counter affidavit filed on her behalf, that the petitioners have not approached this Court with clean hands and have also not brought forward the entire facts. It has been submitted that the sale-deed No. 892 was executed on 27-05-1997 in favour of the opposite party No. 2, who had applied for mutation and the same was entered in her name in the Revenue records of the Government and a separate *Jamabandi*, bearing No. 3895, was also opened and rent receipt was being issued in her name up-to 2022-23.

9. It has further been submitted on behalf of the opposite party No. 2 that though the petitioners have



claimed to be residing over the land in question since 1914, but not a single document has been produced or filed before this Court by the petitioners in order to corroborate their claim and, moreover, in the application filed before the Revisional Court, the petitioners in paragraph 8(h) of the petition filed before the learned Sessions Judge, Khagaria have stated that they have been residing with their family since 1987 over the said land, which is contrary to the claim being made before this Court. It has also been submitted that the petitioners run a tea shop and they had requested the opposite party No. 2 to allow them to run the same with an undertaking that they would remove/vacate the same as and when the opposite party No. 2 would ask.

10. The attention of this Court has been drawn by the learned counsel for the opposite party No. 2 towards Annexure - OP-2/C, which is the copy of Khagaria P.S. Case No. 251 of 2021 and which was lodged against petitioner No. 1 as the police had found



that in the garb of tea stall, anti-social elements were assembled there and illegal trade of country made liquor was being carried out from the said shop and the petitioner was found to be involved in the same.

11. It has further been contended that the petitioners along with their family members are not allowing the opposite party No. 2 to enter her land. The forceful and aggressive behaviour by the petitioners and their family members attracted another criminal case against them *vide* Khagaria P.S. Cse No. 811 of 2022 lodged by one Sanjit Kumar, which has also been brought on record by way of Annexure – OP-2/D to this application.

12. It has been submitted on behalf of the opposite party No. 2 that on account of some illegal activities being carried out under the garb of tea shop of the petitioners, an application was made before the SDM, Khagaria, requesting him to remove the same as also a temporary bamboo made hut. On such application, an



enquiry was conducted by the Circle Officer, Khagaria. Upon submission of the report by the Circle Officer, the petitioners were asked to submit papers in support of their contention. However, the petitioners could not submit any document to support their claim of their rightful title and possession over the said land and thereafter, the order for removal was passed. It has also been submitted that the Revisional Court had very rightly dismissed the revision application, stating that there was no document brought forward by the petitioners in support of their claim of title over the said land for a long period.

13. It has lastly been submitted by the learned counsel for the opposite party No. 2 that in view of the aforesaid, the present application, being misconceived, should be dismissed with cost.

14. Having heard the learned counsel for the parties, this Court has found that the Miscellaneous Case No. 3(M) of 2023 was initiated on the application made



by the opposite party No. 2, wherein the learned SDM, Khagaria, after a thorough enquiry, found that the land in question belonged to the opposite party No. 2, which was purchased through a registered sale-deed and her name has also been entered into the Revenue records of the Government and the land possession certificate has also been issued later in her favour.

15. This Court also finds that in reply to the claim of the opposite party No. 2, the petitioners could not submit any documentary evidence in support of their rightful title and possession over the said land. Taking into account such facts, the learned SDM, Khagaria went on to hold that the petitioners are trying to forcefully enter the said land, which exists right in front of Civil Court, Khagaria and the Office of the Collector, Khagaria is also adjacent to the said land. The SDM, Khagaria has further gone on to hold that it is the petitioners who have tried to forcefully capture the land of the opposite party No. 2 and unnecessarily been creating a right title over



the said land. The SDM, Khagaria, therefore, looking at the dispute in question which would cause breach of law and order and on account of the administrative exigencies, passed the order dated 18.04.2023, directing the petitioners to remove the hutment; otherwise the same would be forcibly vacated.

16. This Court has perused both the orders impugned in the present application, referred to above, and has found that both the Courts below have gone into the question of rightful possession and title of the petitioners over the said land. However, not a single document has been produced by the petitioners to prove their right over the said land, which is enough to suggest that the petitioners are trying to forcibly capture the said land of the opposite party No. 2 by constructing a temporary hutment over the same and, therefore, both the Courts below have rightly directed for forceful removal of the hutment of the petitioners over the said land on which they do not have any right and title and are



indulged in illegal activity from the same.

17. It is a settled law that any claim over the property has to be supported by relevant documents in proof of such title. However, in the case in hand, very importantly, not a single document has been brought forward by the petitioners either before the learned Courts below or before this Court, which goes on to show that they are enforcing their right over the said land, which, *prima facie*, belongs to the opposite party No. 2 by virtue of sale-deed executed in her favour way-back in the year 1987.

18. In such view of the matter, this Court does not find any illegality in the orders impugned in the present application, referred to above.

19. The application is dismissed accordingly.

(Sourendra Pandey, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	31/07/2025
Uploading Date	29/08/2025
Transmission Date	29/08/2025

