

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.201 of 2025

Malti Devi W/o- Rajendra Paswan, Father of Late Jadu Paswan Resident of
Village- Hasanpura Police Station- Janipur Dist- Patna, A/P- Sahapur Ps-
Parsa bazar, Dist- Patna

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Dept. Govt. of Bihar, Patna Bihar
2. The District Magistrate, Patna Bihar
3. The Senior Superintendent of Police, Patna Bihar
4. The Circle Officer, Phulwari Sharif, Patna Bihar
5. The Officer in Charge, Parsa Bazar Dist- Patna Bihar
6. Ajay Rajak S/o- Late Shadev Rajak Village- Sahapur Ps- Parsa bazar, Dist- Patna
7. Munni Devi w/o- Ajay Rajak Village- Sahapur Ps- Parsa bazar, Dist- Patna

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Bijay Kumar, Adv.
For the State	:	Mr. G.P.7
For Resp. No. 6 and 7		Mr. Sanjay Kumar, Adv. Mr. Satyendra Kumar Bhatnagar, Adv.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 31-03-2026 In the instant petition, petitioner has prayed for the
following relief(s) :-

“For direction to the official respondents to protect from private respondents they are disturbing physical possession and trying to usurp the registry land bearing Tauzi No. 5225 Khata No. 31 Plot No. 154 Area 16 dhur-8 Dhurki situated at Mauza-Fatehpur, P.S. Phulwari, District-Patna.

(ii) For a direction to the official authority to not make any hindrance on the plot which is under the possession of the petitioner since



13.12.2000 on the basis of sale deed, rent receipt and Jamabandi.

(iii) For direction to the respondent state authority to take legal hard action against the private respondent no. 6 to 7 who are creating nuisance on plot without having a right, title and possession upon the plot with the help of local bad elements.

(iv) For direction to the respondent state authority to restrain private respondent no. 6 to 7 go on the plot.

(v) For any other order/orders on the basis on facts and circumstances stated herein of the case.

2. Learned counsel for the petitioner submits that petitioner has purchased land from Mosmat Sheela Devi, wife of late Janardan Singh, R/o village-Hasanpura, P.S. Phulwari Shariff, present residing at P.S. Janipur, District-Patna bearing its Tauzi No. 5225, Khata No. 31, Plot No. 154, Area 16 dhur 8 Dhurki situated at Mauza Fatehpur, P.S Phulwari District Patna vide sale deed dated 13.12.2000 (Annexure-P/1). He further submits that petitioner has deposited *Lagan* on 03.06.2020 for the year 2020-2021 (Annexure-P/2). He further submits that petitioner has submitted an application dated 15.10.2024 before the Police Station, Parsa Bazar stating therein that the private respondents are creating nuisance and are wanting to grab the



aforesaid land forcibly (Annexure-P/3). Learned counsel further submits that petitioner also submitted an application dated 13.11.2024 through the postal registry before the Circle Officer, Phulwari Sharif stating therein that the private respondents are constructing a wall forcibly and grabbing the aforesaid land (Annexure-P/4). Learned counsel further submits that petitioner has also submitted an application dated 13.11.2024 before the Senior Superintendent of Police, Patna and District Magistrate, Patna regarding the aforesaid matter (Annexures-P/5 & P/6) but till date the respondent authorities are sitting tight over the matter.

3. Learned counsel for private respondent nos. 6 and 7 appeared and submitted that there is a dispute between the parties on the said portion of land and in cases of private land dispute, writ is not maintainable.

4. Learned counsel for the State submits that there is a dispute between the parties regarding the land in question and the nature of the dispute clearly indicates that, in such type of dispute, an alternative remedy is available to the parties before the appropriate forum. Therefore, the writ petition is not the only efficacious remedy in the present case.

5. After hearing the grievance of the petitioner's



counsel, it came to fore that there is dispute between the parties regarding the land in question and the land in question is the bone of contention between the parties and where there is disputed aspect of land or another personal dispute is involved, the same cannot be decided through summary procedure. Hence, the writ petition is not maintainable.

6. 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 violation of some statutory duty cast on particular 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.



7. 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.”

8. 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.”

9. Accordingly, the present writ petition is disposed of with liberty to the petitioner to approach the appropriate authority/forum.



10. So far as the grievance of the petitioner as raised before the Officer-in-Charge, P.S. Parsa Bazar, District-Patna by way of representation (Annexure-P/3) as well as Circle Officer, Phulwari Sharif, Patna by way of representation (Annexure-P/4) which have not been decided as yet, petitioner is granted liberty to represent his grievance, as has been raised in the present writ petition, afresh before the Officer-in-Charge, P.S. Parsa Bazar, District-Patna and well as Circle Officer, Phulwari Sharif, Patna within a period of four weeks from the date of receipt of this order. If such representation is filed within the stipulated period, the concerned authority will pass appropriate order after giving due opportunities of hearing to the parties concerned, without being prejudiced by the order passed by this Court, expeditiously within a reasonable period of time.

11. Pending Interlocutory Application(s), if any, shall stand disposed of.

(Alok Kumar Pandey, J)

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K.C. Jha

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