

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1805 of 2025**

Raj Kumar Mishra Son of Sri Subedar Mishra Permanent Address- village and P.O.- Lulha Dhanaw, Purab Tola, P.S.- Baniyapur, District- Saran at Chapra, present address- Arpana Bank Colony, Phase-II, Road No.16, Ram Jaipal Road, Patna, Danapur Cantt. P.S- Rupaspur, District- Patna. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna. Bihar
2. The Home Secretary, Govt. of Bihar, Patna. Bihar
3. The Director General of Police, Govt. of Bihar, Patna. Bihar
4. The Superintendent of Police, Saran, Chapra Bihar
5. The Deputy Superintendent of Police, Saran, Chapra. Bihar
6. The Inspector of Police, P.S.- Baniyapur, District- Saran, Chapra. Bihar
7. The Officer Incharge, P.S.- Baniyapur, District- Saran, Chapra. Bihar
8. Ashok Kumar Mishra S/o Shri Subedar Mishra Residing at Village and P.O.- Lulha dhanaw purabtola, P.s.- Baniyapur, Dist.- Saran
9. Shashi Bhushan Mishra @ Jhandu Son of Ashok Kumar Mishra Residing at Village and P.O.- Lulha dhanaw purabtola, P.s.- Baniyapur, Dist.- Saran
10. Mani Bhushan Mishra @ Sonu Son of Ashok Kumar Mishra Residing at Village and P.O.- Lulha dhanaw purabtola, P.s.- Baniyapur, Dist.- Saran

... .. Respondent/s

**Appearance :**

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| Petitioner/s  | : | Mr. Rajkumar Mishra, (In Person) |
| For the State | : | Mr. Sita Ram Yadav, G.P.16       |
|               |   | Mr. Jitendra Kumar, AC to GP 16  |

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL ORDER**

3      15-06-2026      Heard the parties.

2. In the instant petition, petitioner seeks following relief(s) :-

*"(A) A writ in the nature of Mandamus or any other appropriate writ, order(s), direction(s) Commanding the respondent to lodge FIR against the Private respondents and take suitable action against*



*them so that stolen article of the petitioner may be recovered.*

*(B) A writ in the nature of any other appropriate writ directing the respondent to provide and ensure the safety of the petitioner and his family member as well as the protection of his ancestral house and property from any on lawful interference, tresspass or damage by the private respondent or any other persons acting on their behalf, whenever the petitioner visit his native village alongwith his family.*

*(C) Any other appropriate writ, order (s) or direction(s) as your Lordship may deem fit and proper."*

3. The petitioner, who appears in person, submits that he has filed application dated 15.05.2025 before the Superintendent of Police, Saran, Chapra and expresses his apprehension that private respondents may break the lock of the room and steal the belongings which are kept therein. He further submits through para 4 of his reply to the counter affidavit that petitioner's father has five sons and a daughter.

4. Learned counsel for the State submits that the representation/application dated 15.05.2025 were thoroughly enquired into and during enquiry it was found that the father of the petitioner Subedar Mishra is a retired government teacher who has four sons who have been all given one room in their residential house as share. He further submits that the petitioner has been pressurizing his father to give him half of his



retirement benefits and pension and has also forcefully acquired two rooms in the house. He further submits that the petitioner and all the respondents /second set are members of the same family and share the same residential home and the dispute between the parties relates to partition of ancestral home and division of the petitioner's father's pension. He further submits that there is no other civil or criminal case pending between the parties. He further submits that during the enquiry it was also found that all the facts stated in the above referred representations/applications were false and fabricated and no incident as alleged as has occurred.

5. After going through the material available on record, it appears that there is dispute between the parties regarding partition of ancestral home and division of the petitioner's father's pension and the said dispute is the bone of contention between the parties. The writ court is not an appropriate court to decide such disputed aspects, and the same can be decided by the competent civil court.

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 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.

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. At this stage, petitioner submits that he has filed representation dated 04.06.2025 before the Superintendent of Police, Saran, Chapra (Annexure P-3) which has not been decided by the concerned authority or discussed in the counter affidavit filed on behalf of the learned counsel for the State up till now.

10. Learned counsel for the State submits that, in case petitioner files a fresh representation before the concerned authority, the same may be looked into.

11. Considering the facts and circumstances of the case and the submissions advanced on behalf of the parties, the present writ petition stands disposed of with liberty to petitioner to file fresh representation before the competent authority.



12. If petitioner raises his grievance before the competent authority by filing fresh representation, the competent authority shall pass appropriate order on the representation of the petitioner in accordance with law after giving due opportunity of hearing to the parties concerned within a reasonable period of time.

13. However, the petitioner has prayed for providing proper safety and security to the petitioner and his family members as he has apprehension that he might be disturbed by private respondents.

14. In that eventuality, the Superintendent of Police, Saran, Chapra may take into account the apprehension of the petitioner and after proper assessment, the required protection shall be provided to the petitioner and his family members.

**(Alok Kumar Pandey, J)**

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