

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1839 of 2024

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

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Aruna Devi Wife of Shri Sunil Pandey Resident of Ramdayal Path, Mohalla -Jakkanpur, Veer Kunwar Singh Nagar, PS -Gardanibagh, P.O.- Near AK Jha Gali, Patna-800001.

... .. Petitioner

Versus

1. The State of Bihar, through Director General of Police, Bihar
2. Inspector General of Police, Patna Zone Bihar
3. The Senior Superintendent of Police, Patna Bihar
4. That Superintendent of Police, Town, Patna Bihar
5. The Dy. Superintendent of Police, Sachiwalaya, Patna Bihar
6. The S.H.O., Gardanibagh Police Station, Patna Bihar
7. Surendra Pandey Son of Late Arjun Pandey R/o- Village- Mahatpur, P.O.- Dhanar, P.S.- Chandradip Dhanar, Distt.- Jamui
8. Niwash Pandey Son of Late Arjun Pandey R/o- Village- Mahatpur, P.O.- dhanar, P.S.- Chandradip Dhanar, Distt.- Jamui
9. Sudhir Pandey Son of Late Arjun Pandey R/o- Village- Mahatpur, P.O.- dhanar, P.S.- Chandradip Dhanar, Distt.- Jamui
10. Rajendra Prasad Son of Late Satyadeo Prasad R/o- Village- Mokama Near Mahavir Mandir, Laheria Tola, Ward no. 11, P.S.- P.O.- Mokama, Distt.- Patna

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Pathak, Advocate
For the State	:	Mr. Raj Kishore, GP-18
For Resp. Nos. 7 to 10	:	Mr. Ranaj Kumar Dubey, Advocate
		Mr. Kumar Gaurav, Advocate
		Mr. Shashank Kashyap, Advocate
		Ms. Sheshadri Kumari, Advocate
		Ms. Ishiqua Raj, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date : 22-01-2026

The present writ petition has been filed seeking direction to the respondents- State authorities to save and protect the life and property of the petitioner and her family



members from respondent nos. 7 to 10.

2. Briefly stated, the case of the petitioner as it appears from the petition is that the petitioner has been residing in a house built upon *Khesra* No. 329, *Khata* No. 85, *Thana* No. 7/29, *Mauza*- Jakkanpur, Patna which was purchased by her father-in-law, late Arjun Pandey, in the year 1989 through a registered sale deed. After purchase of the land, Arjun Pandey constructed a *pucca* house in which the petitioner has been residing with their family. Arjun Pandey had four sons, they are the husband of the petitioner and respondent nos. 7, 8 and 9, respectively. Further case of the petitioner is that respondent nos. 7, 8 and 9 have been residing in their paternal Village- Mahatpur, P.O-Dhanar, P.S.-Chandradip Dhanar, District Jamui while the petitioner's husband has been residing in the house on purchased land situated in Patna. In an oral family arrangement, the husband of the petitioner was allowed to stay in the house at Patna and he had to forgo his share in village property. The petitioner further averred that the respondent nos. 7, 8 and 9 clandestinely sold away their $\frac{3}{4}$ share in the aforesaid property against the provisions of Transfer of Property Act to a stranger who has been made as respondent no. 10 in the present case. The petitioner came to know about the sale when she received a



call from respondent no. 10 asking her to vacate the house. Thereafter, the petitioner obtained the sale-deed executed on 28.06.2024 and found that in the sale-deed the land has been shown as vacant land and the basis of title has been explained as family partition, when there was no such partition. Thereafter, respondent no. 10 came with others and threatened the petitioner and her family to vacate the house. A complaint was made to the police authority but no action was taken. Rather, on 30.07.2024, a person called on mobile phone of petitioner's son identifying himself as SHO of Gardanibagh Police Station and asked the petitioner to come to the police station. When the petitioner reached the police station, she was asked to vacate the house by the police officer present and was threatened that the house would be demolished with JCB. The petitioner gave an application to Deputy Superintendent of Police, Sachiwalaya on 31.07.2024. Another application in this connection was given to the Senior Superintendent of Police, Patna on 02.08.2024. Further case of the petitioner is that on 03.08.2024, the co-sharer, respondent no. 9, and others tried to enter in the house and when prevented from doing so, they entered into scuffle and abused the petitioner and threatened to kill her with entire family members. On giving information on emergency no. 112,



the police came but left the place without doing anything. Thereafter, a written information was given to Gardanibagh Police Station on 03.08.2024 for the said occurrence. Again on 05.08.2024, co-sharer-Sudhir Pandey, Aditya Pandey along with respondent no. 10 and his son, came to the house of the petitioner with some unknown persons and started abusing and threatening her and tried to break the gate and on failure locked the gate from outside and went away. After sometime, all persons came with Gardanibagh police while the petitioner had come out of house with the help of ladder and left the place out of fear. The police tried to call the petitioner to ensure the entry of the respondent in the house and scared the petitioner and she left the house and started living at some other place out of fear for life and safety. Thereafter, the petitioner filed Title suit No. 332 of 2024 for cancellation of registered sale deed before the Sub Judge, Patna which is still pending. Thus, the petitioner has submitted that due to apathetic and callous attitude of the respondents, the petitioner's life and property are under severe threat and the petitioners are likely to be displaced from her only place of residence. With the aforesaid averments, the petitioner has approached this Court in its writ jurisdiction.

3. Learned counsel for the petitioner submitted that



the petitioner along with her family has been staying in the house made by her father-in-law and the respondent no. 7, 8 and 9, under a family arrangement, allowed the husband of the petitioner to stay in the house in lieu of foregoing the share in paternal property situated in District-Jamui. The police authorities are hand-in-glove with these private respondents and by hook or crook they want the petitioner to vacate the house and remove her from her only place of residence. Learned counsel further submitted that the *malafide* of the private respondents is apparent from the fact that their sale-deed mentions the land as a vacant land whereas a building is situated on the said land. Moreover, the respondents 7, 8 and 9 could not sell the dwelling house in which the family of the petitioner has been residing. Learned counsel further submitted that the husband of the petitioner is not mentally sound and is not able to protect the interest of his family and for this reason, the present petition has been filed by the petitioner. The respondent nos. 7, 8 and 9 stay at different places and only with a view to harass the petitioner and her family and for illegal gain, they executed the sale deed in favour of respondent no. 10. Since the petitioner has been residing in the property in question with her family, the respondents-authorities are duty bound to protect her possession



but the failed in their duty. Learned counsel further submitted that the *malafide* is further apparent from the fact that though the respondent nos. 7, 8 and 9 have sold the property, still they are contesting the present case. It is also not clear in which capacity, they have put the lock since the property is not theirs anymore. Learned counsel further submitted that the property in question is a dwelling house belonging to a joint family and the respondents- 7, 8 and 9 transferred it to a stranger to the family, though the petitioner with her family is in possession of the same. Therefore, the respondents-authorities should be directed to protect her possession.

4. Learned counsel appearing on behalf of respondents-State submitted that vide order dated 29.10.2024 passed by a Co-ordinate Bench, the Senior Superintendent of Police, Patna was directed to look into the matter and he was further directed that if it was found that respondent no. 10 has put his lock in the house, then appropriate action should be taken. After this order, an inquiry was made and it was found that two locks were put on the main gate of the house in dispute. It also came to the notice that nobody has been residing in the said house. The house has been put under vigil and a report has been submitted to the Sub Divisional Police Officer, Sadar,



Patna on 30.10.2024. The Sub Divisional Police Officer submitted his report on 06.11.2024 after further inquiry. During inquiry, the fact came to the knowledge that though the petitioner claims no partition has been held, other three brothers and co-sharers informed the police that a partition had taken place in presence of *Panchas* on 17.07.2017. But the petitioner and her husband did not accept this partition kept on dilly dallying the matter. It led to dispute between the members of the family and ultimately, three brothers sold their shares only and left the share of the husband of the petitioner intact. Learned counsel further submitted that in order to maintain peace between the parties, preventive action was initiated and non-FIR Case No. 62 of 2024 was registered under Section 126 of BNSS and proposal has been sent accordingly. Learned counsel further submitted that *status quo* is being maintained on the property in dispute. Learned counsel further submitted that, admittedly, a partition suit has been filed by the husband of the petitioner prior to filing of the present petition and the present dispute is land dispute between the co-sharers and hence, it is a dispute relating to property between the private parties and the present writ petition is not maintainable. Learned counsel flatly denied about any collusion between the police officers and the private



respondents and submitted that the Investigating Officer noted the fact that the petitioner put a lock on the main door of the house and left the house whereupon the second party also put a lock over the lock put by the petitioner and, as of now, no one is residing in the said house. Thus, the learned counsel submitted that the present writ petition may be dismissed with cost.

5. Learned counsel appearing on behalf of respondent nos. 7 to 10 vehemently contended that the present writ petition is not maintainable and it is an abuse of the process of law. Learned counsel, at the outset, submitted that the petitioner has no *locus* to file the instant writ petition and pointed out that the husband of the petitioner has not filed the writ petition, though he has filed the partition suit vide Title Partition Suit No. 332 of 2024. In the present writ petition, the petitioner claimed that she has been given the house in question and the respondent nos. 7, 8 and 9 were given share in the paternal property in their native village but in the title partition suit, no such averment has been made. Learned counsel further submitted that it is a question of right of co-sharers/joint owners and is a disputed questions of fact. Moreover, this property dispute between the private parties cannot be a subject matter of the writ jurisdiction of this Court. Learned counsel further submitted that the petitioner has



approached this Court seeking protection of her life and property but, admittedly, she is not staying in the house in question as she has stated that she left the house after a lock was put by the private respondents. But it is a completely false statement and the petitioner herself put a lock and left the house and thereafter, the private respondents put their lock being the joint owner. Learned counsel further submitted that for argument sake, if it is taken that the lock has only been put by the private respondents, the option available to the petitioner was to invoke the jurisdiction of civil court seeking removal of lock but, as it is a property dispute, such prayer could not be allowed in writ jurisdiction. Learned counsel further submitted that, moreover, the respondent nos. 7, 8 and 9 have sold the land only to the extent of their shares. Learned counsel further submitted that the sale deed mentions it is a residential land and the RCC structure over the said land had been valued separately apart from the value of the land. So, it cannot be said that the private respondents have concealed any fact. Learned counsel reiterated that the petitioner has no *locus* to file the present writ petition as she has no right, title and interest in the property in question. Only her husband has some right and title in the property in question, that too, to the extent of 1/4th share, which



has already been allotted to him. Further, for redressal of his grievance, he has already approached the competent civil court by filing Title Suit No. 332 of 2024 prior to the present writ petition seeking similar relief. The petitioner could not be allowed to forum shopping as for protection of her possession, she has already approached the competent civil court. Therefore, the relief sought by the petitioner cannot be granted in view of pendency of Title Suit No. 332 of 2024. Learned counsel further submitted that the contents of the petition that she has been residing in the house in question is completely denied, the respondent nos. 7, 8 and 9 sold their shares after amicable partition between four sons of late Arjun Pandey and the share which was allocated to respondent nos. 7, 8 and 9 has been sold by them to respondent no. 10. Learned counsel further submitted that both sides have lodged cases against each other. The sister-in-law of the petitioner, namely Gayatri Devi, has also lodged Gardanibagh P.S. Case No. 386 of 2024 against the petitioner, her husband and her son. Learned counsel further submitted that it was the petitioner who put the lock in the premises and the allegation that the private respondents put the lock gets falsified by the averment of the petitioner herself that the private respondents came to the premises with police. If the



private respondents would have put the lock, there was no need for them to come at the house in dispute with the police. The petitioner is not in possession of the house in question and she herself left the premises and put a lock on the main gate and thereafter, private respondents put their lock. Learned counsel further submitted that since the petitioner has no right, title and interest in the property, as such, there was no threat to her property. Moreover, for the same relief for the same subject matter, her husband, who is one of the co-sharers in the disputed land, had already filed Title Suit No. 332 of 2024. Learned counsel further submitted that there was no question of any displacement from the premises in question and the petitioner has herself left the premises on her own. The petitioner has alternative and efficacious remedy available to her and the said remedy has already been opted by her husband by filing Title Suit No. 332 of 2024 with regard to same piece of land and for similar relief, therefore, the present writ petition is not maintainable.

6. I have given my thoughtful consideration to the rival submission of the parties.

7. From the record and submission made on behalf of the parties, it is apparent that the petitioner and the respondent



nos. 7, 8 and 9 claim the property in question as their joint family property left by the father of respondent nos. 7, 8 and 9 and the father-in-law of the petitioner. As a matter of general principle, writ court do not enter into purely private title disputes. Adjudication of complex factual dispute over property rights cannot be decided by the Writ Court. Such disputes are better handled by the regular civil courts of competent jurisdiction because title disputes involve complex factual questions requiring detailed inquiry and examination of evidence. The Hon'ble Supreme Court in the case of ***Roshina T. v. Abdul Azeez K.T.***, (2019) 2 SCC 329, held in paragraph nos. 14 and 15 as under:

“14. It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the 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. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. 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. This Court has held that it is not intended to replace the ordinary remedies by way of a civil suit or application available to an aggrieved person. The jurisdiction under Article 226 of the Constitution being special and extraordinary, it should not be exercised casually or lightly on mere asking by the litigant. (See Mohan Pandey v. Usha Rani Rajgaria [Mohan Pandey v. Usha Rani Rajgaria, (1992) 4 SCC 61] and Dwarka Prasad Agarwal v. B.D. Agarwal [Dwarka Prasad Agarwal v. B.D. Agarwal, (2003) 6 SCC 230] .)

15. In our view, the writ petition to claim such relief was not, therefore, legally permissible. It, therefore, deserved dismissal in limine on the ground of availability of an alternative remedy of filing a civil suit by Respondent 1 (writ petitioner) in the civil court.”

(Emphasis supplied)

8. Further, in the case of **Sohan Lal v. Union of India, 1957 SCC OnLine SC 39: AIR 1957 SC 529**, the Hon'ble Supreme Court in Paras-5 and 8 held as under:

“5. 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. There 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 Article 226 of the Constitution such a declaration ought to be made and restoration of the property to Jagan Nath be ordered.

8. In our opinion, the High Court erred in allowing the application of Jagan Nath filed under Article 226 of the Constitution and making the order it did. The appeal is accordingly allowed and the order of the High Court is set aside. In the circumstances of the present case, however, we are of the opinion that each party should bear his own costs in this Court and in the High Court.”

(Emphasis supplied)



9. In the case of ***P.R. Murlidharan Vs. Swami Dharmananda Theertha Padar, (2006) 4 SCC 501***, the Hon'ble Supreme Court in Para-17 held as under:

“17. A writ petition under the guise of seeking a writ of mandamus directing the police authorities to give protection to a writ petitioner, cannot be made a forum for adjudicating on civil rights. It is one thing to approach the High Court, for issuance of such a writ on a plea that a particular party has not obeyed a decree or an order of injunction passed in favour of the writ petitioner, was deliberately flouting that decree or order and in spite of the petitioner applying for it, or that the police authorities are not giving him the needed protection in terms of the decree or order passed by a court with jurisdiction. But, it is quite another thing to seek a writ of mandamus directing protection in respect of property, status or right which remains to be adjudicated upon and when such an adjudication can only be got done in a properly instituted civil suit. It would be an abuse of process for a writ petitioner to approach the High Court under Article 226 of the Constitution seeking a writ of mandamus directing the police authorities to protect his claimed possession of a property without first establishing his possession in an appropriate civil court. The temptation to grant relief in



cases of this nature should be resisted by the High Court. The wide jurisdiction under Article 226 of the Constitution would remain effective and meaningful only when it is exercised prudently and in appropriate situations.”

(Emphasis supplied)

10. Therefore, the law is settled that the High Courts cannot interfere in the matters which pertain to property dispute between the private parties and fall under the jurisdiction of civil court as the High Court cannot usurp the function of civil courts. It is clear from the discussion made so far that the petitioner has approached this Court in its writ jurisdiction with regard to a dispute over property between co-sharers. In the present case there are disputed questions of fact which need adjudication and would require testing the rival claims of the parties to title and possession. If the writ Courts venture into these territories, the effectiveness and meaning of this extraordinary remedy would be lost.

11. So far as protection of possession of the petitioner is concerned, the same could have otherwise been a ground on which writ could have been maintained, but in the given facts and circumstances, the prayer made by the petitioner could not be acceded to. Hon'ble Supreme Court in the case of **P.R.**



Murlidharan (*supra*) explained when possession could be protected and held that a writ for “police protection” so-called, has only a limited scope, as, when the court is approached for protection of rights declared by a decree or by an order passed by a civil court. It cannot be extended to cases where rights have not been determined either finally by the civil court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order. Admittedly, the petitioner is not in possession as mentioned in the writ petition itself. It is also admitted fact that husband of the petitioner has filed a Title partition Suit No. 332 of 2024 prior to filing of the present writ petition. Therefore, the rights of the parties are yet to be determined. Moreover, the title suit has been filed seeking following relief(s):

“(i) That on adjudication of the facts it be declared that the schedule I property is a joint and undivided property of the plaintiff and defendant 1st set

(ii) That it be further declared that the alleged sale deed dt-28.06.2024 executed by defendants 1st set in favour of defendant 2nd set is void, abinitio (sic), illegal, fraudulent, sham, showy and not binding upon the plaintiff.

(iii) That after granting relief no (i) and (ii) the defendants 1 set be directed to execute



sale deed of their 3/4th share in favour of the plaintiff on the valuation as fixed by this Hon'ble Court.

(iv) That the defendant 2nd set be restrained from any kind of alienation or from changing physical feature of the suit property as detailed in sch II of the plaint by demolition or any type of construction and also be restrained from interfering in the peaceful possession of the plaintiff till the disposal of the suit.

(v) That cost of the suit be awarded in favour of the plaintiff.

(vi) That any other relief or reliefs to which the plaintiff be deemed to be entitled to be granted to the plaintiff.”

12. Thus, relief (iv) is squarely covered with relief sought by the petitioner in the present writ petition. When there is claim and counter claim of possession, right and title over the property, disputed questions of fact cannot be adjudicated in writ jurisdiction. When the husband of the petitioner is already before a court of competent jurisdiction and has sought the same relief before the competent civil court, the petitioner is not allowed forum hunting and she should seek her remedy before the court where the partition suit filed by her husband has already been pending on the date of filing of the present writ



petition.

13. Therefore, in the light of discussion made here-in-before, I am of the considered opinion that the writ petition of the petitioner is not maintainable and hence, the same is dismissed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	AFR
CAV DATE	16-12-2025
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