

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19009 of 2024

1. Durgawati Devi W/o Suresh Pandey, D/o Late Munni Lal Pandey, resident of Village- Shivpur, Araj English, P.O.and PS - Lal Ganj District- Ballia, Uttar Pradesh.
2. Smt. Kamlawati Devi, W/o Madan Mohan Pandey, D/o Late Munni Lal Pandey, Resident of Village- Jhausa, P.O.- Belwania, PS- Behia District- Bhojpur.
3. Asharfi Devi, W/o Sri Ram Pandey, D/o Late Munni Lal Pandey Resident of Village- Jhausa, P.O.- Belwaria, P.S. Bihia, District- Bhojpur.
4. Ashok Kumar Pandey S/o Late Kripa Shankar Pandey, Resident of Mohalla - Chitragupt Road, Bhargu Ashram, Ballia, District- Ballia, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Collector of the District, Buxar, At and P.O.- Buxar, Bihar.
3. The Sub-Divisional Magistrate, Buxar, At and P.O- Buxar.
4. The Superintendent of Police, Buxar, At and P.O- Buxar.
5. The Anchal Adhikari, Buxar, At and P.O - Buxar.
6. The S.H.O., Industrial Area, Buxar, P.O and P.S - Buxar.
7. Ramakant Pandey, S/o Late Ramjas Pandey, Resident of Village - Nari P.O and P.S - Narhi, District- Ballia, Uttar Pradesh
8. Jitendra Nath Rai@ Lallu Rai S/o Late Ram Nath Rai, Resident of Village- Baghauna, PS - Narhi, District - Ballia, Uttar Pradesh.
9. Sudhir Kumar Rai S/o Late Batuk Nath Rai, Resident of Village and P.O Narhi, District- Ballia, Uttar Pradesh.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Brij Mohan Kumar Singh, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal, SC-4
For resp. nos. 7 to 9	:	Mr. Manu Tripurari, Adv.
		Mr. Apurv Harsh, Adv.
		Mr. Sujit Kumar, Adv.
		Mr. Hritik Anand, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 15-04-2026 Heard Mr. Brij Mohan Kumar Singh, learned
counsel for the petitioner, Mr. Manu Tripurari for respondent



nos. 7 to 9 besides learned State Counsel.

A) PRAYER:

2. The present application has been preferred for the following relief(s):

(i) for issuance of writ/writs in the nature certiorari for quashing and setting aside of the order dated 01.11.2024 passed by the Sub-Divisional Magistrate, Buxar, Bihar in land dispute related Case No. 31/2024 vide Annexure-P/9, the order impugned on the basis of one application dt. 14.10.2024 filed by Jitendra Nath Rai, Resp. No.8 & 9 without implead them as necessary parties to the Petitioners.

(ii) Further for issuance of writ in the nature of mandamus commanding/ directing the authorities Resp. No. 5 & 6 not to proceed in the matter by way of illegal order dated 01-11-2024 passed by Resp. No.3 not to dispossess from the ancestor land/house of the petitioners situated at village-Sahopara, Tarapura of Khata No. 25, Plot No. 6 & 4, over an area - 1.23 Acres and Sahopra Mauza, Khata No. 101, Plot No.77 and 150 area-0.83 decimal of

(iii) As a consequence to the first relief on being granted during pendency of writ petition interim relief by way of direction the respondent be restrained not to interfere the possession of Petitioners from their ancestral village house/ land and give full protection



through the state officials. So that they may resume their farming activities over adjoining Raiyati land along with the house situated.

iv) Further consequential relief it be directed that even if any kind of illegal acts is committed by the respondents by Resp. No. 7 to 9 dispossessed through antisocial elements from the ancestral land/house. The possession of the petitioners will be restore by give full protection under law.

v) Further consequential relief writ be issue directing the state and its official concerns to pay exemplinary damages and compensation amounting quantifying at Rs. 50,000,00/- (Rupees Fifty Lakhs) to the petitioners due to illegal interferences to remove / demolish the constructed house/ land of the petitioners under the facts and circumstances of the case.

vi) Any other relief/ reliefs to which the petitioners are found entitled be granted.

B) FACTS/ CASE OF THE PETITIONERS:

3. The matter relates to a piece of land in the **Village- Sahopara, Tarapura** under **Circle and district Buxar** with the following details:

(a) khata no.- 25; plot no. 6 & 4 (area- 1.23 acres) and;

(b) khata no.- 101, plot no.- 77 (area- 0.83 decimal).

4. The short facts of the case are as follows:



5. A **Title Suit No. 82/1987** was filed by one Most. Rajmati Kuer w/o late Munni Lal Pandey on 17.06.1987 against the Defendant-respondent No. 7 (who is younger brother of 2nd daughter's husband) for a declaration that the defendant/respondent no. 7 have no right, title, interest on the basis of alleged four Sale deeds of land which have been taken over under fraudulent conditions without consideration and is not binding upon plaintiff.

6. The contention is/was that when she got knowledge about the fraudulent act committed by defendant/ respondent No. 7, she got it cancelled through the Registrar, Buxar vide an order 21.03.1987 and thereafter, filed a proper suit for declaration of title and confirmation of possession.

7. Immediately after the filing of T.S. No. 82/1987, the sole plaintiff, Most. Rajmati Kuer died on 07.09.1987 leaving behind seven daughters, out of whom, the last daughter Durgawati Devi remained unmarried and performed the last rites with the help of the friend of her uncle, namely Shri Niwas Pandey. Upon the knowledge about the Title Suit, she appeared through him by filing petition for substitution under order 22 rule 3 C.P.C. on 30.10.1987.

8. Later, one of the daughter, Chinta Devi, wife of



Kripa Shankar Pandey also died on 31.10.1987 leaving behind her two sons who also filed substitution petition on 09.12.1987 stating therein that both are the legal heirs/legal representative of deceased maternal grandmother, Most. Rajmati Kuer. Thereafter another daughter, namely Smt. Indrawati Devi also filed substitution petition on 10.12.1987.

9. The contention is that the respondent no. 7, Ramakant Pandey who with bad intention and wanted to usurp the landed property on the basis of alleged Sale Deed filed a petition before the **S.D.O./ S.D.M., Buxar in case no. 1361 (M) 1986 u/s 146 (1) of C.R.P.C.** for attachment of the property and appointment of the receiver. In the said case, an order under 145 Cr.P.C. was passed by the S.D.O. Buxar in his favour.

10. Thereafter, Cr. Misc. No. 7721/1989 preferred against the said order and after hearing the parties, this Court vide an order dated 08.09.1989 was pleased to set aside the impugned order passed by the Sub-Divisional Magistrate, Buxar.

11. Later, the defendant respondent no. 7 preferred an application for mutation before the Circle Officer, Buxar on the basis of alleged documents which was allowed. The Additional Collector, Buxar dismissed the petition preferred against the



order whereafter a **Revision case 30/1995-96** was preferred before the court of **Commissioner, Patna Division** which was ultimately dismissed by order dated 01.10.1996.

12. The case of the petitioners are that thereafter, the defendant/ Respondent No.7 fraudulently executed two registered sale deeds in favour of respondent nos. 8 & 9 over an area of 2.6 acres of land in the year 2014-15 without obtaining mutation order and without seeking permission of the consolidation court which is/are mandatory under the consolidation act.

13. The case is that the petitioners filed for substitution on different dates as all of them were married in different villages and due to that, it was not easy to communicate with each other as also some confusion of their family cropped up of their own sister as a result of which all of them were not properly pursuing case.

14. The suit was dismissed for default on 21.06.2002. After sometime, this fact was brought to the notice of one of the daughter, Durgawati Devi. She at once filed a Misc. case No. 51/2002 dated 03.09.2002 under order 9 rule 4 and 151 C.P.C. for restoration of the suit stating therein that she has got knowledge about the dismissal of the case on 30.08.2002. The



suit was restored to its original file after due process of law vide order dated 09.10.2004.

15. Meanwhile, the sale deed by respondent No. 7 was executed in favour of respondents 8 & 9 in the year 2014-15 and they filed a petition for mutation before the Circle Officer, Buxar which was allowed ex parte without any notice to the petitioners. Against that mutation order, the cousin of the petitioner filed a case before the D.C.L.R. for setting aside the mutation order which was however, affirmed by the D.C.L.R. Buxar.

16. It was again challenged before the learned Collector, Buxar who after hearing the parties set aside the Mutation Order as well as the D.C.L.R. order in Case No. 162/2017 and remitted the case to the court of D.C.L.R. Buxar for fresh hearing.

17. The respondents herein preferred **Civil Revision no. 28/2022** before this Hon'ble Court challenging the order dated 19.06.2022. Notices were issued to the respondent petitioners and in the mean time, further proceeding of **T.S. No. 82/1987** was stayed till further order vide an order dated **10.02.2023**.

18. Further, on 14.10.2024, the respondent No.8



Jitendra Nath Rai claiming purchase of land (measuring 1.23 acres of land of Khata No. 25, Plot No. 3 & 4, area 83 decimals of land of Khata No. 101, Plot No. 77 & 150 through the Resp. No.7 Ramakant Pandey) obstructed one Ram Awadhesh Pandey, the cousin brother of petitioner.

19. On the same day, the respondent No.3, the S.D.M., Buxar issued a notice to the parties. However, the petitioners were not made a party and contention is that without service of notice the matter was fixed for 14.10.2024 for appearance of the parties along with the documents of the landed property, which is under dispute.

20. The contention is that an order came to be passed on 01.11.2024 by the respondent no.3 giving a direction to the Police to provide protection to the respondent nos. 5 and 6.

21. The contention is that the said order is an illegal order, they were not noticed and as such, any order behind their back need interference. Learned counsel for the petitioner submits that an appropriate order need to be passed in their favour and against the respondent no. 7 to 9.

C) CASE OF THE RESPONDENT NOS. 7 to 9:

22. A counter affidavit has come on behalf of the respondent nos. 7 to 9 and the learned counsel has drawn



attention of this Court to the following facts:

23. The petitioners filed Title suit no 82 of 1987 as also the **Criminal Revision no. 148 of 2024** preferred against their first cousin, Ram Awadhesh Pandey.

24. However, the petitioners, under the garb of this writ petition want recovery/ possession of the land in question. The submission is that they are out of possession since 03.03.1987, when late Rajmati Kuer, wife of Late Munnilal Pandey sold the same for valuable considerations to Respondent no. 7, Ramakant Pandey through four registered sale deeds, all dated 03.03.1987 and put the purchaser (R-7 Ramakant Pandey) in the possession of the same.

25. The petitioners have no locus-standi to maintain a writ case till they get themselves substituted in place of sole Plaintiff, late Rajmati Kuer in **Title suit no. 82 of 1987** [Rajmati Kuer vs Ramakant Pandey and others] and succeeds in getting a decree for the reliefs prayed therein.

26. The contention is that the case is bad for suppressing the material facts regarding filing of the aforesaid criminal revision by Ram Awadhesh Pande challenging the same very order. The petitioners have also suppressed the fact that few daughters of late Rajmati Devi have sold some of the



disputed lands during the pendency of Title Suit.

27. The case of the respondents is/are that the petitioners have been set up by Srinivas Pandey and his sons specially Ramawdhesh Pandey, who is a land broker and is contesting the matter by filing appeal and petitions has also challenged the impugned order by filing a Criminal Revision Petition before the learned Sessions Judge.

28. The further case of the respondents is/are that one Har-Prasad Pandey died leaving behind two sons, namely Munnilal Pandey and Srinivas Pandey. Munnilal Pandey, who was separated from his brother, died leaving behind his wife, Rajmati Kuer and some daughters, whose names, number and identity are still not known. His wife, Rajmati Kuer also died on 07.09.1987.

29. Srinivas Pandey had five sons namely Ram Awadhesh Pandey, Dinesh Pandey, Sanjay Pandey, Rakesh Pandey and Rajesh Pandey. Rajmati Kuer sold the lands under dispute, measuring about 2 Acre 32 Decimal to Respondent no. 7 Ramakant Pandey for valuable considerations through four registered sale deeds, all dated 03.03.1987 and put the purchaser in the possession of the same and he continued in the possession of the same till he sold the lands to Respondents no. 8 and 9.



30. Few months later, a suit bearing T.S. No. 82 of 1987 was filed under most suspicious circumstances, in the court of Sub-Judge Buxar on 17.06.1987, showing aforesaid Rajmati Kunwar, wife of late Munnilal Pandey as sole plaintiff and Ramakant Pandey as defendant for declaration that all the four sale deeds are forged and have conferred no title to the purchaser and the same be set aside.

31. The contention is that the plaint, although contains a blurred thumb impression purported to be put by said Rajmati Kuer and has been signed in the pen of said Srinivas Pandey but it has neither been verified nor affidavited by the plaintiff in accordance with the provisions of law laid down under order 14 and 15 of the Code of Civil Procedure. Further, the plaintiff, shortly after filing of the suit died on 07.09.1987. Thereafter, the race for getting substituted as legal heir of late Rajmati kuer started in the suit.

32. On 30-10-1987, one Durgawati Devi, claiming herself to be minor daughter of original Plaintiff, Raj Mati Kuer filed a petition under Order 22 Rule 3 through her aforesaid uncle, Shrinivas Pandey as guardian that her mother, Rajmati Kunwar [the plaintiff] died on 07-09-1987 leaving behind her daughters, namely, Durgawati Devi herself, Asharfi Kunwar



wife of Shri Ram Pandey, Kamlawati wife of Madan Ji Pandey and Fransisi Kunwar.

33. Accordingly, the petitioner no. 1 prayed that she may be substituted in place of plaintiff while her above named sisters be made defendants in the suit. It may be added here that the petition although recites the dates put under signatures to be 30.10.1987 but the order sheet indicates that it had been filed on 07.03.1988.

34. Further, on 09.12.1987, one Ashok Kumar Pandey, Jhuna Pandey and Munna Pandey, minor sons of Kripa Shankar Pandey filed joint petition through their father and natural guardian that the original plaintiff, Rajmati Kunwar died on 07.09.1987 and she was their 'Nani' as she had daughters only.

35. It has been further been stated that Chinta Devi, (since dead) their mother was the eldest daughter of the original plaintiff, late Rajmati Kunwar and she was married with said Kripa Shankar Pandey. She died on 31st October, 1987. It has been further stated that one Anjani Devi @ Angani Devi was another daughter of plaintiff, Rajmati Kunwar, she was married with one Shrikant Pandey, son of Ram Yas Pandey of Village & PS- Narahi, District- Balia and a daughter Saroj Kumari was born to her.



36. After the death of Anjani Kumari, said Shrikant Pandey was married with another daughter, Indrawati Devi of original plaintiff, Rajmati Kunwar. The fourth daughter of original plaintiff was Durgawati Devi. Based on aforesaid facts, the said petitioners prayed for substitution of their names in place of original plaintiff.

37. On 10-12-1987, one Indrawati Devi, wife of Shrikant Pandey and Saroj Kumari, minor daughter of Shrikant Pandey filed a joint petition for adding their names under Order 1 Rule 10 of the CPC as a plaintiff. It has been stated that the first marriage of Srikant Pandey was solemnised with one Anjani Devi @ Angani Devi and out of this wedlock, said Saroj Kumari was born. After the death of said Anjani Devi, Shrikant Pandey was married with Indrawati Devi, another daughter of original plaintiff Rajmati Kuer.

38. Accordingly, Indravati and Saroj have prayed for substitution of their names in place of plaintiff. In the petition, names of some more heirs, namely Chinta Devi wife of Kripashankar Pandey and Kumari Durgawati have been recorded. The case further records that Chintamani too died in the month of October 1987 leaving behind Ashok Kumar Pandey, Jhuna Pandey and Munna Pandey as her heirs. In view



of aforesaid facts both petitioners made prayer for impleading as plaintiffs.

39. The case is that the suit was dismissed for default on 21.06.2002. Thereafter, Shrinivas Pandey filed a petition supported with an affidavit under section 151 of the Code of Civil Procedure to re-call the aforesaid order of dismissal dated 21.06.2002 and hearing the substitution petition filed by the parties. The date of filing of this petition is torn in the original file. It appears from the sequence of the orders that it has been filed some times in the month of June or July in 2002 i.e., in between 21.06.2002[date of dismissal of the suit] and 17.7.2002 to which date this petition had been adjourned for hearing.

40. The petition, after due hearing, was dismissed on **07.08.2002**. The learned court while rejecting the prayer observed that the petitioner [Shrinivas Pandey] is not a legal heir of late Rajmati Kuer, rather he is a purchaser from Fransisi Devi and others purported daughter of original plaintiff, late Rajmati kuer and on this basis, he wants to get himself substituted as a plaintiff which is impermissible under law.

41. On 03.09.2002, a petition under order 9 rule 4 read with section 151 of the Code was filed by said Durgawati Devi. It was allowed, without hearing the parties which was



challenged by filing Civil Revision petition bearing 31 of 2017 before this Court.

42. Ramakant Pandey meanwhile sold the following lands to the respondent no. 8, Jitendra Kumar Rai and respondent no. 9, Sudhir Kumar Rai vide registered sale deeds dated **19.11.2014** and they got themselves added as co-defendants in the suit.

Mauza khata no. plot no. area

Tarapur 95 6 1-03D

4 0-20D

Total.... 1A-2D

Sahpur 101 77+150 0-83D

43. On 06.10.2015, Durgawati Devi & 6 others filed a joint petition to substitute them in place of original plaintiff Rajmati Kuer (since dead). The Respondent no. 7 Ramakant Pandey, by filing rejoinder dated 14.03.2018 opposed the move.

44. The contention is that the learned Sub-Judge Buxar, without taking notice of his earlier order dated 11.01.1989 and without recording any finding as to who are the heirs/legal representatives of the original Plaintiff late Rajmati and also on the point of abatement, allowed the substitution



petition by an order dated **19.04. 2022**, decades after the death of late Raj Mati Kuer.

45. The **Respondents no. 7 to 9 thereafter challenged the said order by filing CR no. 28 of 2022 and Patna High Court stayed the order dated 19.04.2022.**

46. Thus, the sum and substance of the aforesaid case of respondents is/are that:

(i) during the pendency of the C.R. No. 28 of 2022, Ram Awadhesh Pandey created problem which followed the petition and the order dated **01.11.2024** passed by the **SDM, Buxar**;

(ii) Ram Awadhesh Pandey already challenged the said order date 01.11.2024 by filing **Criminal Revision No. 148 of 2024** before the Competent Sessions Court;

(iii) this fact has been suppressed by the petitioners in the present petititons;

(iv) despite the battle having been fought before the learned SDM, Buxar with Ram Awadhesh Pandey, he has not been impleaded as party respondent;

(iv) as such, the writ petition is fit to be dismissed.

D) FINDINGS:

47. This Court has taken note of the facts of the case



as also the submissions put forward by the the respective parties. The matter relates to T.S. No. 82 of 1987 preferred by Most. Rajmati Kuer, mother/ grandmother of the petitioners herein. She died in the year 1987 itself.

48. This followed substitution petitions being preferred by her daughter, grand sons. It was dismissed for default, restored. It seems around two decades later, on the petition filed by Durgawati Devi and others (in the year 2015) for substituting them in place of Durgawati Devi was allowed on 19.04.2022.

49. Admittedly, **Civil Revision No. 28 of 2022 (Ramakant Pandey vs. Durgawati Devi & ors.)** has been preferred by the present respondents challenging the said order dated **19.04.2022** passed in the **Title Suit No. 82 of 1987** by the learned **Sub-Judge, Buxar**. In the said case, a Co-ordinate Bench of this Court vide an order dated **10.02.2023** stayed the further proceeding of **Title Suit No. 82 of 1987**.

50. It is the case of the respondents that in the meantime, frustrated with the stay order by the Patna High Court one Ram Awadhesh Pandey tried to dispossess them from the land in question which led to **Land Dispute Case No. 31 of 2024** and the **Sub-Divisional Officer, Buxar, Sadar** vide an



order dated **01.11.2024** taking note of **Civil Revision No. 28 of 2022** recorded that till the said Civil Revision is pending before Patna High Court, Ram Awadhesh Pandey is restrained from creating any trouble (Annexure- P/9 to the petition).

51. The counter affidavit of the respondents shows that aggrieved by the said order, Ram Awadhesh Pandey moved before the Competent Sessions Court in **Cr. Revision No. 148 of 2024 (Ram Awadhesh Pandey vs. State of Bihar & ors.)**. However, for the reasons best known to the petitioners, they suppressed these facts in the present petition and also chose not to implead Ram Awadhesh Pandey as party respondent in the case.

52. Thus, the facts that emerges are that:

(i) the litigation between the petitioners and the respondents herein have moved from the Title Court to the Civil Revision No. 28 of 2022 in which a stay has been granted and is continuing till date;

(ii) one Ram Awadhesh Pandey tried to disturb the possession of the respondents which led to the Land Dispute Case No. 31 of 2024 and on 01.11.2024, the Sub-Divisional Magistrate, Buxar allowed the petition after recording that during the pendency of the Civil Revision No. 28 of 2022, Ram Awadhesh Pandey is restrained from creating



any trouble.

(iii) aggrieved by the said order, Ram Awadhesh Pandey moved before the Competent Sessions Court in Cr. Revision No. 148 of 2024.

53. Further, though the petitioners are challenging the said order passed by the Sub-Divisional Magistrate, Buxar in Land Dispute Case No. 31 of 2024 dated 01.11.2024 which was fought between the respondents herein and Ram Awadhesh Pandey, knowingly, Ram Awadhesh Pandey has not been made party respondent in the case and also suppressed this fact in the writ petition that Ram Awadhesh Pandey has challenged the order before the learned Sessions Court.

54. Further, the respondents herein are enjoying stay in the Civil Revision No. 28 of 2022 which is within the knowledge of the petitioners being the respondents in the said case.

55. In that background, instead of approaching the concerned Court by filing an appropriate Interlocutory Application and/or appearing along with Ram Awadhesh Pandey before the Competent Sessions Court where the order dated 01.11.2024 has been challenged by him, the petitioners invoked the writ jurisdiction of this Court without even informing this Court that the battle has been taken to the learned Sessions



Court, as recorded above.

56. In the opinion of the Court, the petitioners have suppressed the material facts from the High Court and as Ram Awadhesh Pandey has also not made party in this case, it is fit to be dismissed for suppression of material facts as also non-joinder of necessary parties.

57. In the further opinion of this Court, disputed question of facts are involved in the present case which cannot be decided in a writ petition. In that background, this Court do not find any merit in the present petition.

58. The writ petition is dismissed with aforesaid observation. The interim protection granted to the petitioner on 19.12.2024 stands vacated.

59. Pending I.A.(s), if any, also stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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