

(2020) 02 PAT CK 0084

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 395 Of 2020

Parmanand Pathak

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 107
Constitution Of India, 1950 — Article 226

Citation : (2020) 02 PAT CK 0084

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Sameer Ranjan, Sajid Salim Khan, Prakritita Sharma

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners and learned AC to SC 25 for the State.

2. The petitioners have moved the Court for the following reliefs:

â??i) For directing the respondent authorities to give protection to the private ancestral land bearing Khata No. 241, 227, 229, Khesra No.

455 (old), 1086 (new) 2964 (new) (as contained in para no. 5 to this writ application).

ii) For directing the respondent authorities to gave protection the aforesaid ancestral land from the private respondents of the present writ application.

iii) For any other relief/reliefs granted to the petitioners in terms and circumstances of the case.â??

3. In nutshell, the petitioners wants the authorities to ensure that the private respondents do not disturb their peaceful possession on their lands.

4. Learned counsel for the State, at the very outset raised a preliminary objection and submitted that the petitioners' claim is too vague as it has only been stated in the application that the private respondents cut the tree or otherwise disturb the possession based on which the authorities cannot give protection round the clock just on such vague apprehension/ allegation by the petitioners. It was submitted that till date the petitioners have not moved for any demarcation of the lands as the private respondents, from the pleadings/materials on record, appear to be taking the stand that the land belongs to the Government. It was further submitted that for some criminal act of the private respondents, the petitioners have filed a complaint case, which, according to the learned counsel for the State has now to be dealt with by the concerned Court.

5. Having considered the aforesaid facts and circumstances, the Court finds substance in the contention of learned counsel for the State. Such a vague plea of the petitioners that the private respondent are disturbing their possession without, at first the lands being demarcated and further there being no specific instances with regard to dates and persons concerned, a general allegation against 15 persons, in the considered opinion of the Court is too vague for the authorities to take any effective steps.

6. However, this does not mean that the authorities are not required to protect the bona fide and legal interest of the citizens including the petitioners.

In the present case, because of the fact that the authorities have also recommended for action under Section 107 of the Code of Criminal Procedure, 1973 and the petitioners have also moved before the Court by filing complaint case and there being no specific instances given and most importantly,

till date there being no official demarcation of the lands of the petitioners, in the considered opinion of the Court application under Article 226 of the

Constitution of India based on such materials before the Court, no specific or positive direction can be issued to the authorities.

7. In view thereof, the writ petition stands disposed off with liberty to the petitioners to move before the appropriate forum, in accordance with law, for the grievance raised in the writ petition and depending on the response of the authorities, if the petitioners are still aggrieved, he may take further steps before the appropriate forum for redressal of the same, at the appropriate stage.