

(2005) 12 AHC CK 0015

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 12830 of 2005

Rajesh Singh and Rakesh Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 19-12-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 82

Citation : (2006) 1 AWC 361

Hon'ble Judges : Shiv Shanker, J; Amitava Lala, J

Bench : Division Bench

Advocate : Rajiv Lochan Shukla, Sanjay Singh and S.M.A. Abdi, for the Appellant; A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Amitava Lala and Shiv Shanker, JJ.—Prayer has been made for the purpose of commanding the respondents not to interfere with the possession of the petitioners over their residential house situated in village Purey Dayal, Pargana Barasathi, District Jaunpur. Further prayer has also been made for commanding respondents not to interfere with the peaceful living of the petitioners as provided under the law. We have come to know the facts and circumstances of the case. One of the brothers of the petitioners namely Prem Prakash Singh @ Munna Bajrangi is the accused in a heinous crime case. According to the petitioners, the police is regularly visiting the place of the petitioners and harassing them and their mother. They are threatening to attach the property in spite of decree of the civil suit passed by Civil Judge (Junior Division), Jaunpur, in original suit No. 1014 of 2002 whereunder the petitioners' properties are separated from the accused by a decree of partition.

2. The petitioners contended that under the garb of proclamation u/s 82 of the Code of Criminal Procedure the police personnel are threatening to seize the property, which legitimately belongs to the petitioners. They have no connection with Prem Prakash Singh alias Munna Bajrangi. In any event, the property of the

petitioners is adjacent to the property of Prem Prakash Singh alias Munna Bajrangi and admittedly not physically divided.

3. Learned Government Advocate has contended before this Court that no attachment order is passed as yet. Therefore, the writ petition is based only on apprehension.

4. Upon hearing the parties, we have not yet been able to understand the cause of action of the writ petition. We are not concerned with future cause of action, if any. If the property is attached, in that case, the appropriate remedy is available to get release of the property from appropriate authority on the basis of decree of the civil court. Therefore, it is not a fit case for interference. It appears to us that the petitioners only want to have assurance from the Court about no disturbance from the police. It has alleged that the police is not discharging its duty properly. According to us the petitioners have avenue to make appropriate representation before the concerned authority or to proceed before Human Rights Commission for the remedy. This Court cannot interfere with such type of vague allegations.

5. Factual aspect of the case of Kharak Singh Vs. The State of U.P. and Others, is not applicable herein.

6. Therefore, we do not find any reason to interfere with the matter. The writ petition stands dismissed.

7. No order is passed as to costs.

8. However, if the petitioners appear before the appropriate authority or before the Human Rights Commission for the purpose of redressal of their grievance, if any, such authority or the Commission may consider the case sympathetically.