

(1995) 04 PAT CK 0011
In the Patna High Court
Case No : C.W.J.C. No. 1207 of 1983

Sachidanand Prasad and Another

APPELLANT

Vs

State of Bihar Ors.

RESPONDENT

Date of Decision : 12-04-1995

Acts Referred:

Citation : (1996) 2 PLJR 85

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Advocate : Ravi Shankar Prasad, Sujeet Kumar Sinha and Anjani Kumar Saran, for the Appellant; Yogendra Prasad Sinha and B.P. Singh, for the Respondent

Judgement

S.N. Mishra, J.—Heard learned Counsel for the Petitioners and learned Counsel for the State-Respondents, who are all the police officers. In this writ application, the Petitioners have sought for a direction and/or for issuance of a writ of mandamus directing the Respondents to vacate the house of the Petitioners situate on plot No. 1818 appertaining to Khata No. 465 measuring 22 decimals located in village Belchhi within the jurisdiction of Barh Subdivision in the district of Patna. It is stated that the Petitioners purchased the aforesaid land by two different sale-deeds, the first one being dated 29.1.1955 and the second one dated 18.2.1956 from one Syed Abdul Aziz, the vendor of the Petitioners. Copies of the aforesaid sale-deeds have been made Annexures 1 and 2, respectively, to this writ application. It is further stated that after purchase, the Petitioners have constructed their house over the aforesaid land. It is also stated that the Petitioners are in possession of the land in question right from the date of purchase. Their further case is that on 27.2.1983 in the morning, police personnels, fully armed, came to the land in question, broke open the locks of the rooms and occupied the house forcibly after throwing out the articles of the Petitioners kept therein. On query being raised by the Petitioners, they were informed that the police personnels had come to occupy the house for the purpose of housing the police constables. They further said that they had come

there at the instance of the Dy. Superintendent of Police for using the said house for the purpose of residence of the police constables. Thereafter, the Petitioners filed a representation to the Superintendent of Police, Patna, copy of which is Annexure-3 to this writ application. The Superintendent of Police, Patna, endorsed the said representation to the Dy. Superintendent of Police, Barh with a specific direction to look into the matter and take appropriate steps for vacating the house In question. The endorsement of the Superintendent of Police; is as follows -

Dy. S.P., Barh

Please look into it. Why the force was allowed to occupy the house forcibly. The force should be asked to vacate and shift to some other place.

Sd/- Illegible. 1.3. (83) S.P Patna.

2. A counter-affidavit has been filed on behalf of Respondents, inter alia, stating therein that they had occupied plot No. 1819, which is alleged to be the Gairmazrua Aam land and not the plot No. 1818, claimed by the Petitioners. It has neither been stated in the counter-affidavit nor in course of the argument as to on what basis the land was occupied by the police personnels. Even if assuming for the sake of argument that the land in question is Gairmazrua Aam, the police personnels cannot occupy the land by violating the order of a competent authority in this regard. The act of the police personnels is also not in conformity with any order passed in a proceeding initiated for occupying or possessing the land in question. In my view, this is one of the cases, which discloses the high-handedness on the part of the police personnels to take the law in their own hand by evicting the persons, who are in occupation and/or possession of the land in question. The Petitioners have been evicted from plot No. 1818, has again been reiterated in the counter-affidavit. In the facts and circumstances of this case, I am of the view that the Petitioners have been wrongly and illegally evicted by the Respondents-police personnels without any authority of law. Having regard to the stand taken by the Respondents that they have not evicted the Petitioners from the land in question, namely, plot No. 1818, in the aforesaid counter-affidavit, in the facts and circumstances of the case, I direct the Collector, Patna to personally make spot inquiry/Inspection in presence of the Petitioners, ascertain the actual existing state-of-affairs in the light of the case of the Petitioners and if the contention of the Petitioners is found to be correct, they should be put in possession forthwith and I am further of the view that, in that event, the Petitioners are entitled to be compensated for their illegal eviction from the house in question, by the police personnels who had acted without any authority of law and, in that view of the matter, I also direct the learned Collector to fix the amount of compensation for the loss sustained by the Petitioners. Since Petitioners are out of possession of their house right from 1983, it is desirable that the learned Collector, Patna, should take decision as early as possible preferably within six weeks from the date on receipt/production of a copy of this order.

3. This application is disposed of with the aforesaid observations and directions.