
(2023) 06 PAT CK 0014

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 898 Of 2023

Sidheshwar Prasad

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 26-06-2023

Acts Referred:

Citation : (2023) 06 PAT CK 0014

Hon'ble Judges : Dr. Anshuman, J

Bench : Single Bench

Advocate : Ajit Kumar Ojha, Md. Khurshid Alam

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The present writ petition has been filed for directing the respondent authorities to explain their actions as well as the circumstances which compelled them to take the action which are as follows:-
 - a. The respondent authorities specially the Circle Officer (Respondent No.4) without any valid order of a Court of competent jurisdiction initiated an eviction proceeding and not only damaged the property which is still under the possession of the petitioner as also caused a severe pecuniary loss to him. b. That despite the execution proceeding pending in the Court of Execution Munsif in which the court in its wisdom had fixed a date for the 17th of January, 2023 but without awaiting a Juridical order from a court, under what circumstances the respondent authorities specially the Circle Officer (Respondent No.4) partly demolished the property of the petitioner and also broke all the locks of the shops therein on 11.12.2022 (Sunday). Not only that the respondent authorities did not even hesitate a breaking the locks of the post-office premises which are situated in the property of the petitioner and thereby putting at risk the property of not only the common people but also the property of Government of India.

3. Learned counsel for the petitioner submits that it is true that order passed by the Hon'ble Supreme Court is against the petitioner and according to him the petitioner should be evicted in accordance with law only and not in the manner in which the Circle Officer crossed the limit and taken action by which the property of petitioner has been damaged.

4. Learned counsel for the State submits that Annexure-2 is the order passed by Hon'ble Supreme Court in Civil Appeal No.3936-3937 of 2019 arising out of SLP (Civil) No.9929-9930 of 2019 (Om Prakash Ram Vs. State of Bihar and Ors.) in which entire conduct of the petitioner has been discussed.

5. Upon hearing the argument and going through the order passed by Hon'ble Supreme Court, it transpires to this Court that the petitioner of writ petition has obtained many orders from different courts suppressing the material facts and in conclusion Hon'ble Supreme Court has observed as follows:-

"Therefore, the orders passed by the concerned officer in Demarcation Case No.49/1997, the orders passed by the High Court of Judicature at Patna in CWJC No. 3221/2003, (including the order dated 27.02.2013 passed in Civil Review No. 21/2001 in CWJC No. 3221/2003), the order dated 16.12.2015 passed in Miscellaneous Jurisdiction Case No. 5323/2011 and the order dated 29.03.2016 passed in CWJC No. 1806/2016, are liable to be set aside. Consequently, the impugned orders dated 06.06.2016 and 20.11.2017 are also set aside.

It is evident that the possession of the property in question needs to be restored in favour of the appellant, inasmuch as he was dispossessed based on the ex-parte decree dated 06.06.1994 which ultimately came to be set aside, and as the underlying suit (viz. Title Suit No. 01/2003) itself came to be dismissed vide order dated 29.08.2006, as mentioned supra.

The appeals are allowed with the above observations. It is open to the appellant to get back possession of the property in question in accordance with law in terms of this judgment."

6. In this view of the matter, there is no case of the petitioner, hence the present Writ Petition stands dismissed.