

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12447 of 2013

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Ram Bilash Sah

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Rajendra Pd. Nat (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

4 09-07-2015

This application has been filed for quashing of the order dated

04.02.2013 passed by S.D.M., Mahua in Case No.792 of 2012 whereby the land has been attached in 145 Cr.P.C. under Section 146 (1) Cr.P.C.

The plaint of title suit No.15 of 2012 is annexed with the present application. The learned counsel for the petitioner submitted that there is dispute between the parties with regard to title in respect to the suit property. From perusal of the impugned order dated 04.02.2013, it appears that only on the ground of report of the Officer in-charge to the effect that there is dispute of title and possession between the parties, the property has been attached without considering the fact that title with respect to the same property is pending between the parties. The learned counsel for the opposite party No.2 submitted that there is no illegality in the impugned order. If the impugned order is set aside whereby the property has been attached, there shall be bloodshed at the spot.

Admittedly, title suit with regard to the suit property is pending wherein the complainant is the defendant. No counter affidavit has been filed by the other side denying the fact that the petitioners are making construction on the suit land. If any grievance is there, the complainant should have approached the Court where the title suit is pending with respect to the same property. If this proceeding is allowed to continue when there is title suit is pending between the parties wherein the dispute with regard to possession and title is involved, in my opinion, it will amount to abuse of process of Court. Therefore, this application is allowed and the impugned order is set aside.

(Mungeshwar Sahoo, J)

Sanjeev/-

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