

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4259 of 2013

Arising Out of PS.Case No. -240 Year- 2007 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

- =====
1. Shiv Komal Singh.
 2. Om Prakash Singh.
- Both sons of Late Rameshwar Singh, Residents of Village Chatar, P.O. Babhangawan, P.S. Barahara, District Bhojpur.

.... Petitioners

Versus

1. The State of Bihar.
 2. Prabhansh Singh, Son of Late Ram Bhajan Singh.
 3. Ashok Kumar Singh @ Arun Singh, Son of Late Tej Narayan Singh.
- Both residents of Village Chatar, P.O. Babhangawan, P.S. Barahara, District Bhojpur.

.... Opposite Parties

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Appearance :

For the Petitioners : Shri A.B. Ojha, Senior Advocate
Shri Bharat Bhushan, Advocate
For the State : Shri Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

9 04-05-2015 Heard Shri A.B. Ojha the learned senior counsel appearing on behalf of the petitioners and considering that the title suit was in fact a probate case which on account of being contested as regards the genuineness and other grounds of the deed of Will being executed was converted into a title suit.

The Court wants simply to point out that in an ordinary title suit wherein the question of title or possession is being agitated could very well vary from such a title suit which is to be tried on converting a probate petition into such a suit. The Court refers to *Ram Sumer Puri Mahant Vs. State of U.P. And Others* reported in (1985) 1 SCC 427 wherein it has been clearly

held by the Supreme Court that proceedings under Section 145 Cr.P.C. could not be allowed to continue if the competent civil court is already seized with the issues of title and possession which court has the ultimate jurisdiction to adjudicate the matter.

That not being the case herein, the petition lacks merit and the same is dismissed.

If any stay was granted, the same shall be vacated.

(Dharnidhar Jha, J.)

Sanjay/-

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