

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36637 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PURNIA

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Md. Hasib, S/O Nasiruddin, R/O Village - Singhia Thatol, Police Station -
Dagarwa, District - Purnea

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bibi Hasina W/O Nazir
3. Md. Nazir Ahmad, S/O Haji Musaheb Ali
Both resident of village Singhia Thatol, P.S. Dagarwa, Distt. Purnea.
4. Anzaar Alam
5. Anisur Alam
Both sons of Md. Hasib, R/O Village - Singhia Thatol, Police Station - Dagarwa,
District - Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Najeeb Ahmad, Adv.

For the State : Mr. C. Jawahar, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 05-05-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated
10.7.2012 passed by the Adhoc Additional Sessions Judge No. 5,
Purnea, in Criminal Revision No.02 of 2012 by which he has affirmed
the order dated 16.12.2011 passed by the Sub Divisional Judicial
Magistrate, Baisi, in Case No. 240M of 2011.

It is admitted that a title suit with respect to the same land
was pending between the same parties at that point in time.

In view of the settled principle of law, that Proceeding

under Sections 144/145 Cr. P.C. should not be initiated during pendency of a civil suit, the order dated 10.7.2012 passed by the Adhoc Additional Sessions Judge, 5, Purnea, in Criminal Revision No. 02 of 2012 by which he has affirmed the order dated 16.12.2011 by which the Sub Divisional Magistrate, Baisi, in Case No. 240 M of 2011 had converted a Proceeding under Section 144 Cr. P.C. to one under Section 145 Cr. P.C. should be set aside.

The application is allowed and the Proceeding including the order dated 10.7.2012 passed by the Adhoc Additional Sessions Judge No. 5, Purnea, in Criminal Revision No.02 of 2012 and the order dated 16.12.2011 passed by the Sub Divisional Judicial Magistrate, Baisi, in Case No. 240M of 2011 are hereby set aside.

However, if at all there is an apprehension of breach of peace, the Parties are at liberty to agitate the same before the concerned authorities in accordance with law.

(Anjana Prakash, J)

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