

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51109 of 2014

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

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1. Sumitra Devi, W/o Shiv Shankar Prasad
2. Basudeo Sah, S/o Late Mahesh Lal Sah,
3. Shiv Shankar Prasad, S/o Late Mahesh Lal Sah
All residents of Mohalla- Sitaram Chowk, Ward No. 10, P.S.- Sitamarhi, District-
Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Pankaj Kumar, S/o Dhruv Kumar Gupta, resident of Pethia Road, Ward No. 8,
P.S.- Sitamarhi, District- Sitamarhi
3. Dhruv Kumar Gupta, S/o Late Balram Prasad, resident of Pethia Road, Ward
No. 8, P.S.- Sitamarhi, District- Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Adv.

For the State : Mr. Surendra Prasad Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 26-02-2015

Heard learned counsel for the Petitioners and the State.

It has been submitted that despite the fact that the title
suit pending with respect to the same piece of land which statement
has been given in the written statement by the Petitioner, the Court of
Sub Divisional Judicial Magistrate, Sitamarhi, by an order dated
25.10.2013 in Cr. Misc. No. 1062 of 2013 has converted the
Proceeding under Section 144 Cr. P.C. into a Proceeding under
Section 145 Cr. P.C.

The Petitioners hence seek quashing of the aforesaid

order and the order dated 21.10.2014 passed by the Sessions Judge, Sitamarhi, by which he has affirmed the order dated 25.10.2013 by which the Sub Divisional Judicial Magistrate, Sitamarhi, has converted a Proceeding under Section 144 Cr. P.C. to 145 Cr. P.C.

Since it is established principle of law that for the same piece of land where a title suit is pending, no proceeding under Section 144/145 Cr. P.C. should proceed, the application is remanded to the Sub Divisional Judicial Magistrate, Sitamarhi, to pass an appropriate order within a period of three weeks from the date of receipt of this order giving liberty to both the Parties to represent their case.

With this observation, the application stands disposed off.

(Anjana Prakash, J)

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