

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54428 of 2013

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1. Kundan Bhagat, S/O Late Badri Bhagat.
 2. Surya Narayan Mandal, S/O Late Manroop Mandal.
- Both Resident of Village- Sukhasan Kothi, P.S.- B. Kothi, District- Purnea.

.... Petitioners.

Versus

1. The State of Bihar.
2. Bindeshwari Prasad Bhagat, S/O Late Hari Bhagat, Resident of Village- Sukhasan Kothi, P.S.- B. Kothi, District- Purnea.

.... Opposite Parties.

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Appearance :

For the Petitioners :M/s. Gajendra Jha & Surya Kant Mishra, Advocates.
For the State :Mr. Dashrath Mehta, A.P.P.
For the Opposite Party No.2 :M/s. Suraj Nr. Yadav and Anil Kumar Advocates.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 12-04-2016

Heard.

2. This application under Section 482 of the Code of Criminal Procedure filed on behalf of the petitioners is directed against the order dated 22.06.2013 passed in Criminal Revision No.499 of 2012, whereby the Ad-hoc Additional Sessions Judge-V, Purnea, dismissed the aforesaid Criminal Revision of the petitioners, who were the members of the second party in a proceeding under Section 144 of the Code of Criminal Procedure, affirming the order dated 29.09.2012 passed in Case No.574M of 2012 by the Sub Divisional Magistrate, Dhamdaha, converting the proceeding under

Section 144 of the Code of Criminal Procedure into a proceeding under Section 145 of the Code of Criminal Procedure with a direction to the parties to file their written statements.

3. Submission on behalf of the petitioners is that civil suit is pending between the parties and, as such, the proceeding under Section 145 of the Code of Criminal Procedure is bad in law.

4. The order dated 29.09.2012 passed by the Sub Divisional Magistrate, Dhamdaha, in Case No.574M of 2012, converting the proceeding under Section 144 of the Code of Criminal Procedure into under Section 145 of the Code of Criminal Procedure, which has been affirmed by the Adhoc Additional Sessions Judge-V, Purnea, through the impugned order dated 22.06.2013 passed in Criminal Revision No.499 of 2012, shows that the direction has been given to the parties to file their written statements while converting the proceeding under Section 144 of the Code of Criminal Procedure into Section 145 of the Code of Criminal Procedure due to bonafide land dispute. As such, I find no illegality in the impugned order amounting to an abuse of the process of the court, calling for interference in an extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

5. Accordingly, this application stands dismissed. However, if the petitioners have any grievance, they may raise the

same by filing their written statements or filing a separate petition under Section 145(5) of the Code of Criminal Procedure.

(Rajendra Kumar Mishra, J)

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