

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18579 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

Sanjay Rai, son of Late Chanarik Rai, resident of village- Rustampur, P.S.-
Rashopur, District- Vaishali.

.... Petitioner.

Versus

1. The State of Bihar.
2. Mangal Rai.
3. Jank Rai.

Both son of Late Lal Bihari Rai, resident of village- Rustampur, P.S.-
Raghopur, District- Vaishali.

.... Opposite Parties.

Appearance :

For the Petitioner : Mr. Sunil Kumar Singh, Advocate.
For the State : Mr. Dashrath Mehta, A.P.P.
For the Opposite Party Nos.2 and 3 : M/s. Ashok Kumar and Harendra Kumar,
Advocates.

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 29-02-2016

Heard learned counsel for the petitioner, learned A.P.P. for the
State and learned counsel for the opposite party nos.2 and 3.

2. This application is directed against the order dated
19.02.2013 passed in Misc. Case No.2247 of 2012, whereunder the Sub
Divisional Magistrate, Hajipur, ordered under Section 146(2) of the Code
of Criminal Procedure to attach the land in dispute and appointed the
Officer Incharge, Rustampur, as receiver.

3. Learned counsel appearing on behalf of the petitioner
submits that, in fact, in a proceeding under Section 145 of the Code of
Criminal Procedure numbered as Misc. Case No.2247 of 2012, the date was

fixed on 23.02.2013, but the learned Sub Divisional Magistrate, Hajipur, passed the order on 19.02.2013 of attachment of land in dispute and appointed the Officer Incharge, Rustampur, as receiver in the back of the petitioner who is one of the members of IInd Party in proceeding.

4. On going through the provisions of Section 146 of the Code of Criminal Procedure, it is apparent that the Executive Magistrate in proceeding under Section 145 Cr.P.C. if considers the case to be one of the emergency or found unable to satisfy about possession of land in dispute of any party, in such circumstances, he may attach the subject of property and appoint the receiver till decision of right of the parties regarding possession by the competent court.

5. I find no illegality in the impugned order calling for interference in an extraordinary jurisdiction of the Court under Section 482 of the Code of Criminal Procedure. Accordingly, this application stands dismissed. However, the petitioner would be at liberty to approach the trial court for withdrawl of the attachment order.

(Rajendra Kumar Mishra, J)

P.S./-

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